federal register

FRIDAY, JANUARY 7, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 4

Pages 195–249

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

(Continued Inside)

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Contents

(Continued on next page)

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

3 CFR

PROCLAMATION:

4100 ... 199

5 CFR

213 (2 documents) ... 201

7 CFR

PROPOSED RULES:

301 (3 documents) ... 217, 218

14 CFR

PROPOSED RULES:

43 ... 222
91 ... 222
135 ... 222
207 ... 226
208 ... 226
212 ... 226
214 ... 226
372a ... 226

21 CFR

130 ... 201

PROPOSED RULES:

3 ... 219

24 CFR

200 (2 documents) ... 203, 209
201 ... 210
275 ... 211

36 CFR

231 ... 211

39 CFR

760 ... 211
761 ... 211

43 CFR

4110 ... 213

PROPOSED RULES:

2800 ... 217
2810 ... 217

46 CFR

PROPOSED RULES:

146 ... 220

47 CFR

89 ... 213

49 CFR

7 ... 214
301 ... 214
1002 ... 215

PROPOSED RULES:

571 ... 222

Presidential Documents

Title 3—The President

PROCLAMATION 4100

National Parks Centennial Year

By the President of the United States of America

A Proclamation

In John Colter's saga of adventure, we find the genesis of an idea which was to change man from nature's ancient adversary to its friend and preserver. In 1806, this guide and trapper for Lewis and Clark left the expedition on its return journey and set off on a series of exploits that brought him, alone and on foot, into an unknown wilderness of majestic splendor. He carried back tales which prompted scoffing disbelief, then awe, and finally an unending cavalcade to the headwaters of the Yellowstone River. Years later, on March 1, 1872, in an Act signed by President Grant, Colter's discovery was established as the first national park for the people of the Nation and of the world.

A century has come and gone, and in that time the National Park System has grown to include 280 areas embracing the most magnificent examples of America's natural and historical heritage. In every time and season, our parks give of their joys and beauties. They have enriched the citizens of this land beyond measure, and have inspired more than 100 nations to set aside over 1,200 national parks and reserves. Truly, "one touch of nature makes the whole world kin." And this past year, through the Legacy of the Parks, we have embarked on a new era of bringing parks to the people with the opening of vast new tracts of wilderness and recreation land, a fitting close to the first 100 years of our National Park System and a proper beginning for the next 100 years.

As directed by the Congress in a joint resolution of July 10, 1970 (84 Stat. 427), the Secretary of the Interior has requested me to issue a proclamation designating the year 1972 as National Parks Centennial Year in recognition of the establishment in 1872 of Yellowstone National Park, the world's first national park.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the year 1972 as National Parks Centennial Year.

I urge appropriate Federal, State, and local government officials to cooperate in the observance of that year with activities that will not only

honor the past but will provide a focus for understanding the increasing importance of the National Park System in the lives of all Americans, establish an atmosphere of cooperation among private citizens and local, State, and Federal governments regarding the national park concept, and encourage our citizens and our friends beyond our borders to participate in Centennial activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of January, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.72-375 Filed 1-6-72; 11:47 am]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Overseas Private Investment Corp.

Section 213.3317 is amended to show that one position of Secretary to the Executive Vice President, Overseas Private Investment Corp., is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (1–7–72), paragraph (d) is added to § 213.3317 as set out below.

§ 213.3317 Overseas Private Investment Corporation.

* * * * *

(d) One Secretary to the Executive Vice President.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-257 Filed 1-6-72;8:46 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that the position of Deputy Assistant for Problems of the Elderly and the Handicapped, Office of the Assistant Secretary for Housing Management, is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (1–7–72), subparagraph (6) of paragraph (c) of § 213.3384 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-256 Filed 1-6-72;8:46 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Subpart A—Procedural and Interpretative Regulations

APPROVED NEW DRUGS THAT REQUIRE CONTINUATION OF LONG-TERM STUDIES, RECORDS, AND REPORTS; LISTING OF LEVODOPA

In the FEDERAL REGISTER of September 23, 1970 (35 F.R. 14784), the Commissioner of Food and Drugs proposed adding § 130.47 and § 130.48 to Part 130 (21 CFR Part 130) in order to provide for continuation of long-term studies on certain drugs after new-drug applications have been approved. Levodopa was proposed as a drug that would require continuation of such long-term studies. At the request of the pharmaceutical industry, a notice was published in the FEDERAL REGISTER of November 3, 1970 (35 F.R. 16937) extending the time for filing comments until November 22, 1970.

Eleven comments were received in response to the proposal. Seven of these were from the pharmaceutical industry, and four were from individuals associated with academic hospitals. A majority of the comments agreed that in exceptional cases the benefit to the public would warrant approval of a new-drug application on condition that necessary long-term studies would be conducted. Most of those that favored the basic concept also agreed that levodopa is a drug that would require such long-term studies. The comments can be summarized as follows:

1. There was concern that the concept might be extended to require postmarketing studies on well established drugs and that further studies would be forced on the agency from outside influences not possessing the necessary expertise. To avoid such pressures, it was felt that criteria to be applied in determining which drugs should be made subject to the provision should be carefully spelled out.

2. It was assumed that the provision in § 130.47(b) for proposals made by the Commissioner on behalf of interested persons would not apply to drugs covered by paragraph (a) of that section.

3. The point was raised that, if a drug's usefulness resulted in its approval and continuing studies were required, substantial evidence of effectiveness would have already been shown. Therefore, the condition for approval should be only that continuing studies on safety be conducted.

4. Comment was made that it should be clear that continuation of the studies on a drug would not be permanent, and a provision should be included for periodic review by the Food and Drug Administration and the applicant as to the necessity for continued formal testing.

5. Concern was expressed in several comments that FDA could require additional tests for well established drugs without offering an opportunity for a hearing or even providing an opportunity for a conference with agency officials. The question was raised as to whether the hearing rights under section 505 of the Federal Food, Drug, and Cosmetic Act would apply.

6. Objection was raised to the provisions of § 130.48(a)(1)(vi) which would make the results of the additional studies available to other application holders conducting similar studies.

7. Several comments indicated that the solution to the problem presented by the proposal should be sought through improving adverse reaction reporting systems.

8. The opinion was expressed that FDA has a responsibility to make a judgment as to whether a drug is safe and effective under proposed labeling before approval. In exercising such judgment, the Commissioner can limit the use of the drug through labeling until further data are available.

Having considered the comments received and other relevant information, the Commissioner concludes that:

1. While it is anticipated that this provision will be applied for the most part to new entities as they are introduced into the market, it is possible that a drug already approved for marketing will require further testing. The need for such additional studies becomes necessary occasionally as advances in knowledge raise questions that must be clarified to justify continued marketing of a drug and to assure that the continued availability of the drug while such studies are being conducted is in the public interest. In addition, because marketing experiences with a drug may indicate problems not anticipated from the more limited clinical trials, it is desirable that interested persons bring to the attention of the Commissioner the need for continued or additional studies of a drug. The procedure provided for in this regulation will be applied as is necessary and appropri-

ate to obtain needed data. To provide the needed flexibility for unusual situations, it is desirable that the criteria for inclusion of drugs be broadly stated.

2. The assumed distinctions between paragraphs (a) and (b) of § 130.47 regarding proposals made by the Commissioner on behalf of interested persons is not appropriate. The final order is revised to more clearly indicate that these paragraphs are complementary and that no distinction should be made.

3. Where efficacy may be brought into question or where data on long term effectiveness are needed, such data must be provided.

4. As additional data are available to resolve the outstanding questions, no further testing will be required. Until adequate data are available, any applicants wishing to market the drug will be required to perform the studies. Periodic review of the data is provided for in § 130.48(a)(5).

5. Where questions of safety or efficacy of useful drugs are raised and must be answered to justify continued marketing, FDA must seek additional data to determine if the benefit-to-risk ratio of the drug has been altered to the extent that removal of the drug from the market, revision of the labeling, or some other course of action would be in the public interest. Applicants would be requested to perform the studies. It would be FDA's intent to explore the problem thoroughly with the applicants and outside experts prior to publishing such a requirement. When a drug is not approved for marketing, the applicant has the right to file the application over protest and to seek a hearing in accordance with § 130.5(d) (21 CFR 130.5(d)). When the drug in question has already been approved for marketing, the applicant can refuse to perform the studies, and FDA either would have to seek the data elsewhere or, if warranted, would have to follow the procedures of section 505(e) of the act to withdraw approval of the new-drug application.

6. In view of objections to § 130.48(a)(1)(vi) which would make the results of studies conducted by one applicant available to other applicants and since the Food and Drug Administration is currently reviewing its policy on this matter, this provision should be deleted from the final order.

7. An improved adverse reaction reporting system is desirable and would improve discovery of effects not previously known. However, a very good system would not necessarily answer questions that reflect a need for more or different knowledge regarding the drug's action or effects. Studies of an entirely different type than were previously undertaken with the drug may be necessary, and provisions should be made for these studies.

8. FDA has the responsibility to assure the safety and effectiveness of all drugs on the market. In exercising this responsibility, FDA does limit drug labeling to the extent that safety and efficacy data dictate. However, labeling restrictions are inadequate under circumstances such as those concerning levodopa in which it is clearly in the public interest for the drug to be available for clinical use and for which additional data obtained from widespread clinical use is necessary. Furthermore, to consider the authority to obtain data on a drug as being limited to drugs prior to their approval would be disregarding new data as it becomes available and would be a derogation of the agency's responsibility to the public.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505(j), 701(a), 52 Stat. 1053 as amended by 76 Stat. 782–83, 1055; 21 U.S.C. 355(j), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), two new sections are added to Part 130, Subpart A, as follows:

§ 130.47 Continuation of long-term studies, records, and reports on certain drugs for which new-drug applications have been approved.

(a) A new drug may not be approved for marketing unless it has been shown to be safe and effective for its intended use(s). After approval, the applicant is required to establish and maintain records and make reports related to clinical experience or other data or information necessary to make or facilitate a determination of whether there are or may be grounds under section 505(e) of the act for suspending or withdrawing approval of the application. Some drugs, because of the nature of the condition for which they are intended, must be used for long periods of time—even a lifetime. To acquire necessary data for determining the safety and effectiveness of long-term use of such drugs, extensive animal and clinical tests are required as a condition of approval. Nonetheless, the therapeutic or prophylactic usefulness of such drugs may make it inadvisable in the public interest to delay the availability of the drugs for widespread clinical use pending completion of such long-term studies. In such cases, the Food and Drug Administration may approve the new-drug application on condition that the necessary long-term studies will be conducted and the results recorded and reported in an organized fashion. The procedures required by paragraph (b) of this section will be followed in order to list such a drug in § 130.48.

(b) A proposal to require additional or continued studies with a drug for which a new-drug application has been approved may be made by the Commissioner on his own initiative or on behalf of any interested person. Prior to issuance of such a proposal, the applicant will be provided an opportunity for a conference with representatives of the Food and Drug Administration. When appropriate, investigators or other individuals may be invited to participate in the conference. Such proposal and a summary of the grounds upon which it is proposed will be published in the FEDERAL REGISTER and written comments thereon invited. After considering all available data, the Commissioner will publish an order in the FEDERAL REGISTER acting on the proposal. Proposals submitted by interested persons may be refused by written notice from the Commissioner if the proposal is not supported by reasonable grounds. Upon final determination that special studies, records, and reports are required for a drug, such requirements will be published in § 130.48.

§ 130.48 Drugs that are subjects of approved new-drug applications and that require special studies, records, and reports.

Listed below are the new drugs and requirements referred to in § 130.47:

(a) *Levodopa.* Levodopa has been shown to be of value for symptomatic relief in the treatment of Parkinson's disease. The nature of this disease requires that the drug be taken over a protracted period of time—even a lifetime. In view of the benefits attributable to levodopa, the Commissioner finds that it is not in the public interest to withhold the drug from the market until very long-term or lifetime studies have been completed for a determination of its long-term safety and effectiveness. The Food and Drug Administration has, by letters to applicants, approved new-drug applications for levodopa for use in the treatment of Parkinson's disease. In view of the known adverse effects associated with its use and considering its indicated long-term use, the Commissioner finds that holders of approved new-drug applications for levodopa should be required to continue studies with the drug as described below and to monitor such records and make such reports as are necessary with respect to the continuing studies. These studies are necessary for acquiring an organized body of information on the safety and effectiveness of levodopa in long-term use.

(1) The applicant is to carry to conclusion the 1-year chronic toxicity studies in dogs and 18-month chronic toxicity studies in rats, including the necessary histopathology.

(2) The clinical studies now being conducted under a standard protocol are to be extended in at least 600 of the patients now under treatment. This will include the blood chemistry and medical evaluation currently being done under the existing protocol.

(3) The applicant is to arrange for a central tissue registry to examine human autopsy material obtained from patients in the study who died while under treatment with levodopa.

(4) Reports on the studies will be submitted under § 130.13.

(5) At the end of each year after the date of approval of the application, representatives of the Food and Drug Administration, the applicant, and, if necessary, the investigators will meet to determine on the basis of available information whether or not clinical studies should be continued.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

Dated: December 17, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-248 Filed 1-6-72;8:49 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[Docket No. R-71-119]

PART 200—INTRODUCTION

Subpart N—Project Selection Criteria

EVALUATION OF RENT SUPPLEMENT PROJECTS AND LOW-RENT HOUSING ASSISTANCE APPLICATIONS

The purpose of these regulations is to set forth criteria by which the Department will evaluate applications for funding of housing projects under sections 235(i) and 236 of the National Housing Act, rent supplement projects and low-rent housing assistance applications under the U.S. Housing Act of 1937.

On June 24, 1971 (36 F.R. 12032) the Department first published these criteria for public comment as a notice of proposed rule making. In view of changes made in the criteria as a result of ensuing comments, the Department republished the criteria in revised form for further public comment on October 2, 1971 (36 F.R. 19316). The Department received more than 80 sets of comments after each publication.

The Department has now considered each comment received and publishes these regulations in final form to be effective February 7, 1972. Principal changes and the Department's response to significant comments are set forth below.

Although some comments recommended the use of a two-grade system (acceptable or unacceptable) and others suggested that within each criterion a range of points should be awarded, such as 5, 4, 3, 2, or 1, the Department believes that the three-grade system (superior, adequate, poor) is best. An acceptable-unacceptable rating system would not provide an order of priority for funding. On the other hand, a multipoint system is not necessary because the three-grade system gives a sufficiently wide range of priorities, and the assignment of a numerical range of point values within each criterion would require drawing impractically fine distinctions with respect to factors which often involve broad judgments.

Some comments objected to the procedure of project-by-project evaluation and to the use of uniform, national standards. In view of the fact that HUD's statutory function is to approve proposals submitted, rather than to prescribe areawide plans, the Department believes that the new evaluation system is appropriate. The criteria are sufficiently general to apply across the country without doing violence to local conditions, while at the same time establishing national standards to assure equitable treatment of all areas.

Some comments noted that the criteria duplicate in some respects other program feasibility or processing requirements. While this may be true, the purpose of the criteria is to provide at an early time a means of eliminating clearly unacceptable proposals and assigning priorities in funding to assure that the best proposals are funded first. The criteria will thus serve as a screen, relieving HUD's Area and Insuring Offices from performing the detailed processing required by each program on applications which would never be funded.

Several comments questioned possible conflicts among various criteria. For example, as some comments noted, criterion 6, which relates to efficient production, may conflict with criterion 7, which encourages training. Other comments evidenced a related misunderstanding: They seemed to assume that proposals must get a "superior" rating on every criterion. The purpose of the criteria is to take into account a range of project characteristics and weigh them appropriately in relation to broad policy objectives. Some conflicts are unavoidable. Most proposals cannot be expected to satisfy all criteria equally well, but each of the criteria relates to desirable qualities of a proposed project and will be considered by HUD in its evaluation.

Some comments asserted that the project selection criteria will result in too few projects being built in the inner cities, and others asserted that the criteria will result in too many projects being built there. In the same vein, some comments suggested that the criteria emphasized and encouraged one factor too much or too little. The Department has considered such comments, but believes that the present system gives each of the criteria proper weight and achieves a proper balance of countervailing needs and interests.

It was suggested that the term "housing market area," used several times in the criteria, should be defined to coincide with boundaries of local political jurisdictions. It was also suggested that certain parts of housing market areas should be allotted housing funds irrespective of ratings on the criteria. The Department has declined to adopt these suggestions because housing market areas often are independent of arbitrary political boundaries and allotments to certain parts of those areas could result in the Department's approving projects which would be less than the best that could be created for the people of each housing market area.

Some comments misconstrued the purpose of the project selection criteria as being confined to site selection. In its decision to fund or not to fund a project, the Department believes that it should take into consideration other factors in addition to proposed location of the housing.

A number of civil rights organizations objected that the instructions fail to provide an explicit role for Equal Opportunity officials in evaluation of applications. First, these regulations are not delegations of authority, and therefore are not a proper vehicle for designating which HUD official will evaluate the criteria. Moreover, HUD Equal Opportunity personnel already advise field processing staff on matters of racially impacted areas and other equal opportunity matters which need to be considered in processing housing proposals. The responsibility for evaluating and processing applications is assigned to the Assistant Secretary for Housing Production and Mortgage Credit (HPMC), and under his direction to processing staff in the HUD Field Offices. Other comments also related to internal and administrative procedures of the Department. The Department believes that how the criteria are implemented and processed within the Department is not properly part of the criteria themselves.

The NAACP and others questioned the fact that one "poor" rating can veto an otherwise worthwhile housing proposal. The evaluation system limits the criteria to those elements considered to be important or essential to a desirable proposal. The Department believes that it is appropriate to require a proposal rate at least "adequate" on all criteria in order to receive funding.

Several comments requested definitions of technical terms. The Department believes that definitions of such terms are not necessary, at least at this time.

There were several comments which suggested special treatment for proposals in which the commenter had a high degree of interest. The Department feels that such special and automatic ratings for proposals are not necessary or wise. If a proposal meets the general language of a "superior" rating, it will receive a "superior" without overburdening the criteria with lists of special cases and without danger of rating as "superior" projects which do not deserve it.

Criterion 9, Homeownership, which appeared on the public housing form in the June 24 version has been deleted in response to comments from local housing authorities that the requirement would limit their choice and discriminate against the more typical nonhomeownership low-rent housing programs as opposed to public housing homeownership programs. Groups active in the cooperative housing field suggested that the former criterion 9 for public housing proposals be required also for section 236 evaluation. Because the Department is carrying on a broad effort through all subsidized programs to promote homeownership opportunities for lower income families, it is not necessary to use these criteria as a vehicle for encouraging homeownership.

Some urged that the criteria will impose new and great administrative burdens on applicants, working to the detriment of all, but particularly the smaller or less experienced ones. The Department does not anticipate that the burden

will be great and is convinced that information of the kind called for by the criteria is necessary to enable the Department to choose the best proposals submitted. Local housing authorities pointed out that sites for public housing generally are not known at the application stage. However, administrative procedures with respect to local housing authority applications will provide for statements of intent to be accepted as to some criteria in the absence of exact knowledge; subsequent approval will depend upon meeting the terms of those statements.

Many comments suggested alternative terms, phrases, objectives, and criteria. The Department has adopted those which are appropriate to the regulations and improve the clarity and precision of the criteria.

The regulations now combine the form and the instructions of the previous two versions into a single format. The principal changes and comments with respect to each criterion are summarized below.

Criterion No. 1, Need for Low(er) Income Housing. In response to suggestions for improved clarity over the June version, the instructions now specify the concept of need in terms of number of rooms and structure type. The instructions omit, as unnecessary, references in the October version to specific markets (such as large families and the elderly) because consideration of these factors is included in the broad language of the criterion. The "poor" rating of the October version has been rephrased to eliminate reference to vacancy rates and to add a reference to "comparably priced, standard unsubsidized housing." Several of the comments, such as the one received from the U.S. Civil Rights Commission, pointed out that overall vacancy rates may not be an accurate reflection of ability to satisfy lower income housing needs. As suggested by NAHRO, the "superior" rating now contains the phrase "as a relocation resource" to clarify the connection between housing need and provision of housing for displacees.

Although some comments suggested that the criterion should be more specific with respect to defining housing market areas, measuring elements of housing need, or describing degrees of need, the Department believes that the criterion is now sufficiently clear. Greater detail as needed is contained in HUD market analysis and similar guidelines and is not appropriate for these regulations.

Criterion No. 2, Minority Housing Opportunities. This criterion has been rephrased to clearly distinguish between three kinds of areas: (1) Areas of minority concentration, (2) substantially racially mixed areas, and (3) areas which are outside of (1) and (2).

A phrase has been added which permits building in areas of minority concentration if there exist "sufficient, comparable opportunities * * * for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration." This is designed to assure that building in minority areas goes forward only after there truly exist housing opportunities for minorities elsewhere. The phrase "sufficient, comparable opportunities" is designed to assure that the housing available to minorities outside areas of minority concentration is more than a token amount of so few units that there is in fact no true opportunity. At the same time the phrase is not tied to any rigid formula.

The provision for building inside areas of minority concentration if prospective residents of the project or residents of the project area express a desire for it has been stricken and will not be used. The Department is convinced that such a provision is unworkable and would have been abused, as comments, such as that of the League of Women Voters, suggested. Other examples of overriding need which cannot be feasibly met elsewhere were merely explanatory and not necessary to the regulations. For similar reasons, the phrase "on the basis of factors such as existing demographic trends" was removed.

Housing proposed to be built in substantially racially mixed areas has been omitted from the alternatives of the "superior" rating. Although building in such areas is now permitted under "adequate" where the proposed project will not cause the proportion of minority to nonminority residents to increase significantly, the Department deems it undesirable to encourage projects in those areas by giving them "superior" ratings because such projects in the large numbers a high rating could generate might contribute to a stable racially mixed area's becoming one of minority concentration.

The alternative under "superior" in the October version which referred specifically to Urban Renewal and Model Cities areas was removed because many such areas could not be expected to serve a wide range of income levels and a racially varied population. The phrase "in or near an area of minority concentration" has been shortened throughout to "in an area of minority concentration." Avoidance of adverse impact on transitional areas is addressed elsewhere in the criterion.

An additional provision (4) was added to "adequate" to accommodate housing market areas in which there is little or no minority population. Documentation requirements have been extended to all "superior" and "adequate" ratings.

Criterion 3, Improved Location for Low(er) Income Families. The phrase "similar market value" is substituted throughout for "similar price range," used in the October version of this criterion, and the phrase "unsubsidized housing" has been clarified to "standard unsubsidized housing." These revisions are intended to make clear that in considering a proposed site, HUD will compare facilities and services in the neighborhood surrounding the site with facilities and services in other neighborhoods which are made up of standard, unsubsidized housing similar in market value to the housing in the neighborhood of the proposed project.

Other changes include redefinition of the word "section," from "the project neighborhood and surrounding neighborhoods" to "the project neighborhood and contiguous neighborhoods." Under the former definition a "section" could be construed as so large that it would have defeated the purposes of the criterion. The qualifier "federally" was added to "subsidized housing" so that middle-income subsidized housing (such as that constructed under New York's Mitchell-Lama program) would not be considered as contributing to a concentration of subsidized units. The term "in the near future" has been replaced with "by the occupancy date or very shortly thereafter" to provide a time frame for provision of services and facilities to the neighborhood.

In the "adequate" rating as it appeared in October, "a significant amount of" has been deleted as a modifier of "subsidized housing." The basic consideration is whether the section will be dominated by subsidized housing after completion of the proposed project; the quantity of subsidized housing before the addition of the project is not necessarily the determining factor. The revision makes clear the policy of the criterion that an undeveloped area or one containing little subsidized housing must not be overwhelmed by new subsidized housing.

The regulations continue to base determinations under this criterion on "subsidized" housing, rather than adopting suggestions that the criterion be based on avoiding concentrations of housing for low-income or lower income families. References to Urban Renewal and Model Cities programs have been moved from "superior" to "adequate," as housing in such areas is frequently not up to the standards of a "superior" for this criterion. Nevertheless, if a proposal in an Urban Renewal or Model Cities Area meets the general standards of "superior," such a rating will be given.

Criterion 4, Relationship to Orderly Growth and Development. Although there are many areas without plans which will met this criterion, and the Department will not itself develop such plans, as comments suggested, the Department hopes this criterion will encourage their adoption. The statement of objectives and the "superior" rating specify that acceptable planning should contain a housing element, as suggested by the U.S. Civil Rights Commission and others. However, other comments regarding what details a plan should contain and how it should be adopted have not been incorporated into the criterion as it is thought best to leave such matters up to each planning agency.

To dispel some confusion the "superior" instructions add a parenthetical statement that "zoning alone does not constitute an officially approved land use or other development plan." A "superior" rating now specifically recognizes a planning policy for dispersal of subsidized housing adopted by a State housing or

metropolitan areawide development agency, in addition to plans of a local agency. The provision under "adequate" concerning the absence of, or inconsistency with, metropolitan or regional plans was removed because it was contradictory to the objectives of this criterion.

Criterion 5, Relationship of Proposed Project to Physical Environment. In order to remove any ambiguity in the June version and to relate this criterion to considerations of the National Environmental Policy Act, the revised criterion focuses upon the physical aspects of project design and location and is now a required criterion, as requested by the Chairman of the Council on Environmental Quality.

The treatment of ecological considerations in the instructions for "superior" has been revised in accordance with suggestions from the Environmental Protection Agency and others. The revision, inter alia, makes clear that evaluation of environmental impact must take into account both long-term and short-term effects of the proposed project. The Department has decided not to include several suggestions for addition of specific terms because the added materials are encompassed within other criteria or are already part of feasibility requirements which must be met in later processing.

Criterion 6, Ability to Perform. For clarity, this criterion is revised slightly over the October version. The most important change is use of the phrase "each of the following" which removes difficulty regarding how to rate an efficient contractor who ignores Equal Opportunity guidelines and requirements.

Some comments urged that this criterion will be too harsh on minority or nonprofit sponsors. However, the Department considers the present language is sufficiently lenient without making the criterion meaningless. To achieve national housing goals, ability to perform must be a consideration.

Criterion 7, Project Potential for Creating Minority Employment and Business Opportunities. Comments objected that the June version would have hindered minority firms and workers residing in the inner city some distance from proposed locations. For this reason, the criterion no longer refers to lower-income persons or project area.

The requirements for utilizing business concerns in the "superior" instructions adds to the October version the parenthetical phrase "including but not limited to the prime contractor" to assure that a whole range of minority enterprises, not just the general construction contractor, should have access to business opportunities created by a project. In response to comments by the National Committee Against Discrimination in Housing, the instructions for a "poor" rating have been revised by substituting "could feasibly" for "would customarily." The intent is to assure that no possible source of minority labor or business skills is overlooked. For purposes of consistency, this clause was moved up to "adequate."

Criterion 8, Provision for Sound Housing Management. This criterion has been revised to distinguish between proposals for low-rent public housing on the one hand and 236 and rent supplement projects on the other, and to make the criterion generally more concise. Details of management requirements have not been included in the criteria, as some suggested, for they are too lengthy.

Pursuant to the National Environmental Policy Act of 1969 (Public Law 91-190) and the guidelines of the Council on Environmental Quality of April 23, 1971 (36 F.R. 7724), a document entitled "Final Environmental Statement on Proposed HUD Project Selection Criteria for Subsidized Housing" is being placed in the following locations where it will be available for inspection by members of the public: Program Information Division, Room 1202, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, and in Information Centers of the HUD Regional Offices. Single copies of the statement may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Accordingly, Title 24 is amended by adding to Part 200 as follows:

Subpart N—Project Selection Criteria

Sec.

AUTHORITY: The provisions of this Subpart N are issued pursuant to section 7(d) of the Department of Housing and Urban Development Act of 1965 (42 U.S.C. 3535(d)), sections 235(i) and 236 of the National Housing Act (12 U.S.C. 1715z(i) and 1715 z-1), and the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.).

Subpart N—Project Selection Criteria

§ 200.700 Purpose.

The purpose of this subpart is to set forth the project selection criteria to be used in evaluating (a) requests for priority registration and reservation of contract authority for projects under section 235(i) of the National Housing Act; (b) requests for early feasibility and reservation of contract authority for projects under section 236 of the Act; (c) requests for reservation of contract authority for rent supplement projects; and (d) applications for low-rent housing assistance under the U.S. Housing Act of 1937.

§ 200.705 Authority.

The regulations in this subpart are issued pursuant to section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d), sections 235(i) and 236 of the National Housing Act (12 U.S.C. 1715z(i) and 1715z-1); and the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.). They implement Executive Order 11063, 27 F.R. 11527; title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608; and the Department of Housing and Urban Development regulations approved by the President under title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, in Part 1 of this title.

§ 200.710 Requests for priority registration, early feasibility, or reservation of contract authority for section 235 (i), rent supplement, or section 236 projects and evaluation of applications for low-rent public housing.

A request for priority registration, early feasibility, or reservation of contract authority for section 235(i), rent supplement, or section 236 projects and applications for low-rent public housing shall be evaluated and processed in accordance with the following Evaluation of Requests:

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FEDERAL HOUSING ADMINISTRATION

Evaluation of requests for priority registration, early feasibility, reservation of contract authority (section 235(i), rent supplement, section 236) *or* evaluation of application for low-rent public housing.

☐ 235(i) ☐ 221d3 rent supplement ☐ low-rent public housing ☐ 236 ☐ rent supplement.
Sponsorship: ☐ Profit ☐ Nonprofit ☐ Lim. Div. ☐ Public
☐ Priority registration ☐ Early feasibility ☐ Reservation ☐ App. public housing
Area or insuring office_____
Applicant (name and address)_____
Census tract (where available)_____
Date of initial application_____
Identification of subdivision/location of proposed project_____
Case or application number_____

General instructions: In evaluating proposals involving five (5) or more dwelling units (25 or more in the case of public housing acquisition or leasing), the Area or Insuring Office shall utilize the following Project Selection Criteria. Enter a brief explanation on the lines provided of the way in which the proposal satisfies each applicable consideration, so that the factual basis for the evaluation and rating assigned is clear. Attach supporting documentation and extra sheet(s), if necessary for a complete explanation. Evaluate each criterion by checking the appropriate box—Superior, Adequate, or Poor.

Final feasibility approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing. Rehabilitation projects, Indian Reservation Housing, section 235 existing housing, public housing acquisition or leasing of existing housing of fewer than 25 units not requiring rehabilitation, and proposed construction project of fewer than five (5) dwelling units are excluded.

1. *Need for low(er) income housing* ☐ Superior ☐ Adequate ☐ Poor

Objective: To identify the proposed projects which will best serve the most urgent unmet needs for housing for low(er) income households.

(A) A *superior* rating shall be given to a proposed project:

(1) Which responds well to the most urgent housing needs of low(er) income households in the market area in terms of number of bedrooms and structure type; *or,* _____

(2) As to which there is documented evidence that the housing is needed as a relocation resource to serve families displaced or to be displaced by governmental action, including families or individuals being displaced by the proposed project, and that the applicant will give preference to those so displaced _____

(B) An *adequate* rating shall be given to a proposed project which responds to housing needs of low(er) income households in the market area in terms of number of bedrooms and structure type _____

(C) A *poor* rating shall be given to a proposed project which:

(1) Does not respond to housing needs of low(er) income households in the market area; *or,* _____

(2) Duplicates or competes unreasonably with other subsidized or comparably-priced, standard unsubsidized housing projects in the same locality in such a way as to overbuild the market _____

2. *Minority Housing opportunities* ☐ Superior ☐ Adequate ☐ Poor

Objectives:

To provide minority families with opportunities for housing in a wide range of locations.

To open up nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination.

(A) A *superior* rating shall be given if the proposed project will be located:

(1) So that, within the housing market area, it will provide opportunities for minorities for housing outside existing areas of minority concentration and outside areas which are already substantially racially mixed; *or,* _____

(2) In an area of minority concentration, but the area is part of an official State or local agency development plan, and sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration _____

(B) An *adequate* rating shall be given if the proposed project will be located:

(1) Outside an area of minority concentration, but the area is racially mixed, and the proposed project will not cause a significant increase in the proportion of minority to nonminority residents in the area; *or,* _____

(2) In an area of minority concentration and sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration; *or,* _____

(3) In an area of minority concentration, but is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An "overriding need" may not serve as the basis for an "adequate" rating if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color or national origin renders sites outside areas of minority concentration unavailable); *or,* _____

(4) In a housing market area with few or no minority group residents _____

All "superior" and "adequate" ratings shall be accompanied by documented findings based upon relevant racial, socioeconomic, and other data and information.

(C) A *poor* rating shall be given if the proposed project does not satisfy any of the above conditions, e.g., will cause a significant increase in the proportion of minority residents in an area which is not one of minority concentration, but which is racially mixed _____

3. *Improved location for low(er) income families* ☐ Superior ☐ Adequate ☐ Poor

Objectives:

To avoid concentrating subsidized housing in any one section of a metropolitan area or town.

To provide low(er) income households with opportunities for housing in a wide range of locations.

To locate subsidized housing in sections containing facilities and services that are typical of those found in neighborhoods consisting largely of standard, unsubsidized housing of a similar market value.

To locate subsidized housing in areas reasonably accessible to job opportunities.

(A) A *superior* rating shall be given if the proposed project:

(1) Will be located in a section (consisting of the project neighborhood and contiguous neighborhoods) that contains little or no federally-subsidized housing and (a) the proposed project is, or will be by the occupancy date or very shortly thereafter, accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal services that are equivalent to or better than those typically found in neighborhoods consisting largely of standard, unsubsidized housing of a similar market value, and (b) travel time and cost via public transportation or private auto from the neighborhood to employment providing a range of jobs for low(er) income workers is considered excellent for such families in the metropolitan area or town. (While it is important that elderly housing not be totally isolated from all employment opportunities, for such projects the requirements of (b) above need not be adhered to rigidly); *or,* _____

(2) Is part of a New Community Development Plan approved under Title VII of the Housing and Urban Development Act of 1970 _____

(B) An *adequate* rating shall be given to a proposed project which will be located:

(1) In a section already containing federally-subsidized housing if, with the addition of the proposed housing, the resulting number of federally-subsidized units will not establish the character of the section as one of subsidized housing and the housing will provide an expanded range of housing opportunity for low(er) income families; *or,* _____

(2) In an undeveloped area, but the scale of the project will not be such that it establishes the character of the section as one of subsidized housing; _____

(3) *And,* in the event of either (1) or (2): (a) The project is, or will be by the occupancy date or very shortly thereafter, accessible to social recreational, educational, commercial, and health facilities and services, and other municipal services that are equivalent to those typically found in neighborhoods consisting largely of unsubsidized standard housing of a similar market value, and (b) traveltime and cost via public transportation or private auto from the neighborhood to employment providing a range of jobs for low(er) income workers is reasonable for such families in the metropolitan area or town. (While it is important that elderly housing not be totally isolated from all employment opportunities, for such projects the requirements of (b) above need not be adhered to rigidly); *or,* _____

(4) In an Urban Renewal or Model Cities area and such housing is required to fulfill, respectively, the Urban Renewal Plan or the Comprehensive City Demonstration Program _____

(C) A *poor* rating shall be given if:

(1) The proposed project will be located in a section characterized as one of subsidized housing; *or,* _____

(2) The proposed project will establish the character of the section as one of subsidized housing; *or,* _____

(3) Social, recreational, educational, commercial, and health facilities and services, and other municipal services: (a) are not, or will not be by the occupancy date or very shortly thereafter, accessible to the project; *or* (b) although accessible to the project, are inferior to those generally found in neighborhoods consisting largely of standard, unsubsidized housing of a similar market value; *or,* _____

(4) Travel time and cost via public transportation or private auto from the neighborhood to employment providing a range of jobs for low(er) income workers will be appreciably greater than that usually required in the metropolitan area or town. _____

4. *Relationship to orderly growth and development* ☐ Superior ☐ Adequate ☐ Poor

Objectives:

To assure that the proposed development is consistent with principles of orderly growth and development.

To prevent urban sprawl and the premature development or overdevelopment of land before supporting facilities are available.

To develop housing consistent with officially approved State or multijurisdictional plans.

To encourage formulation of area-wide plans which include a housing element relative to needs and goals for low- and moderate-income housing as well as balanced production throughout a metropolitan area.

(A) A *superior* rating shall be given if the proposed project:

(1) Will be consistent with the housing element of a local, officially-approved land use or other development plan which is consistent with metropolitan or regional plans (zoning alone does not constitute an officially-approved land use or other development plan); *or,* _____

(2) Will be located in and be consistent with plans for a neighborhood that is undergoing improvement via Urban Renewal, Model Cities, New Communities or other similar Federal, State, or local development programs; *or,* _____

(3) Is consistent with a policy adopted by a State housing or metropolitan areawide development agency or the local governing body (especially where this policy implements a multijurisdictional approach) for providing for and dispersing housing for low- and moderate-income families _____

(B) An *adequate* rating shall be given if the proposed project:

(1) Is consistent with a local, officially-approved land use or development plan; *or,* _____

(2) Is consistent with sound growth patterns, although located in a community that does not have officially-approved land use or other development plans _____

(C) A *poor* rating shall be given if the proposed project:

(1) Does not satisfy any of the above conditions; *or,* _____

(2) Is contrary to sound growth patterns _____

5. *Relationship of proposed project to physical environment* ☐ Superior ☐ Adequate ☐ Poor

Objectives:

To provide an attractive and well-planned physical environment.

To prevent any adverse impact on the environment resulting from construction of the proposed housing.

To avoid site locations whose environmental conditions would be detrimental to the success of an otherwise sound project.

(A) A *superior* rating shall be given if the proposed housing will:

(1) Embody outstanding land use planning and excellent architectural treatment, *and*

(2) Be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank backups, sewage hazards, or mudslide; harmful air pollution, smoke or dust; excessive noise, vibration, or vehicular traffic; unsanitary rodent or vermin infestation; or dangerous fire hazards; *and,*

(3) Not, considering both long-term and short-term effects, impact or impair ecologically valuable or significant natural areas, such as wildlife areas, ground water or surface water areas, and parklands, or significant historical or archeological areas

(B) An *adequate* rating shall be given if the proposed project will:

(1) Embody sound land use planning and good architectural treatment; *and*

(2) Be free from adverse environmental conditions that cannot be corrected; *and*

(3) Not have an unreasonably adverse impact on the environment

(C) A *poor* rating shall be given if the proposed project will:

(1) Embody poor land use planning *or* poor architectural treatment; *or,*

(2) Be subject to serious environmental conditions which cannot be corrected; *or,*

(3) Will substantially or unreasonably disrupt the environment or ecologically valuable or unique natural areas

6. *Ability to perform* ☐ Superior ☐ Adequate ☐ Poor

Objective: To produce housing promptly and to provide quality housing at a reasonable cost, taking into account Equal Opportunity guidelines and requirements.

(A) A *superior* rating shall be given if the applicant, his staff, or other personnel which he will utilize (including contractors, subcontractors, architects, consultants, etc.), and help he will receive, considered together, have demonstrated good ability in past performance (in either subsidized, unsubsidized, conventionally-financed developments or related fields), based on each of the following considerations: (a) Ability to perform well within program target dates; (b) high quality of housing produced; (c) ability to produce housing at a cost at or below similar units of comparable quality; (d) compliance with Equal Opportunity guidelines and requirements

(B) An *adequate* rating shall be given if the applicant, his staff, or other personnel which he will utilize (including contractors, subcontractors, architects, consultants, etc.), and help he will receive, considered together have demonstrated an acceptable ability in past performance (in either subsidized, unsubsidized, conventionally-financed developments or related fields), based on each of the following considerations: (a) Ability to meet program target dates; (b) good quality of housing produced; (c) ability to produce housing at a cost equivalent to that of similar units of comparable quality; (d) compliance with Equal Opportunity guidelines and requirements. In the case of an applicant without previous experience in housing or related fields or an LHA with no units under management, an adequate rating will be given if there is no demonstrable reason to believe that it will be unable to meet the above conditions

(C) A *poor* rating shall be given to any proposal which does not meet the above conditions

7. *Project potential for creating minority employment and business opportunities* ☐ Superior ☐ Adequate ☐ Poor

Objectives:

To encourage housing proposals which will generate job opportunities for minority workers.

To provide opportunities for business concerns owned in substantial part by minority persons.

(A) A *superior* rating will be given if the proposal shows good potential, based on the applicant's stated, specific goals, hiring timetables, and past performance, if any, for:

(1) Providing training and/or employment for minority persons; *and*

(2) Utilizing business concerns (including but not limited to the prime contractor) owned, controlled or managed in substantial part by minority persons. This potential may include training, employment and business opportunities in all phases of development, including but not limited to planning, site development, building, maintenance, and management

(B) An *adequate* rating will be given if:

(1) The proposal has good potential, based on the above factors, for satisfying either of the two conditions set forth for a "superior" rating; *or,*

(2) The housing market area has no minority population or the area from which labor could feasibly be recruited and business concerns feasibly contracted has a minority population so low that it would be impossible for the applicant to achieve a "superior" or "adequate" rating

(C) A *poor* rating shall be given to a proposal which shows poor or no potential for satisfying any of the above conditions

8. *Provision for sound housing management*

Objective: To encourage the development of well-managed and well-maintained projects so as to significantly increase their potential for successful, long-term operation and to foster good relations between tenants and management and the surrounding community.

(A) A *superior* rating shall be given to a proposed project which:

(1) If submitted under the section 236 or Rent Supplement programs (a) includes a management plan (based on "Management Plan Requirements"), which significantly exceeds present HUD requirements and guidelines in terms of the quality of management proposed and the services to be provided; *and* (b) has a sponsor and, if applicable, management agent which have demonstrated, through past performance, superior: Maintenance policies, financial stability, tenant-management relations, and overall management practices (with due consideration for past performance in regard to avoiding defaults, need for mortgage payment relief or other significant problems); *or,* _____

(2) If submitted by a Local Housing Authority, the Authority has demonstrated superior: Maintenance policies, financial stability, tenant-management relations and overall management practices _____

(B) An *adequate* rating shall be given to a proposed project which:

(1) If submitted under the Section 236 or Rent Supplement programs, (a) includes a management plan (based on "Management Plan Requirements"), which meets current HUD requirements and guidelines in terms of the quality of management proposed and the services to be provided; and (b) has a sponsor and, if applicable, management agent which have demonstrated their ability or show potential for meeting project management requirements; *or,* _____

(2) If submitted by a Local Housing Authority, (a) the Authority has demonstrated by its past performance adequate: maintenance policies, financial stability, tenant-management relations and overall management policies; *or,* _____

(3) If submitted by a Local Housing Authority with no units under management, the Authority demonstrates the potential to meet project management requirements _____

(C) A *poor* rating shall be given to any proposal project which does not meet any of the above requirements _____

SUMMARY OF RATINGS

Priority group. Check only one box shown below representing the total number of ratings assigned on the form; or *disapproval.* A Superior or Adequate rating is required for all criteria.

Section 235(i) [1]				Rent supplement, section 236 or low-rent public housing			
Priority group	Ratings			Priority group	Ratings		
	Superior	Adequate	Poor		Superior	Adequate	Poor
1. ☐	7	0	0	1. ☐	8	0	0
2. ☐	6	1	0	2. ☐	7	1	0
3. ☐	5	2	0	3. ☐	6	2	0
4. ☐	4	3	0	4. ☐	5	3	0
5. ☐	3	4	0	5. ☐	4	4	0
6. ☐	2	5	0	6. ☐	3	5	0
7. ☐	1	6	0	7. ☐	2	6	0
8. ☐	0	7	0	8. ☐	1	7	0
				9. ☐	0	8	0

☐ Disapproval. A *Poor* rating on any criterion:

[1] Criterion #8 (Management) is not applicable to Section 235.

☐ Disapproval: A *Poor* rating on any criterion:

NOTE: Proposals shall be evaluated when received and shall not be stockpiled unreasonably. After rating has been assigned above, proposals in priority group 1 shall be funded ahead of those in priority group 2, proposals in priority group 2 shall be funded ahead of those in group 3, and so on. Within each group, proposals shall be funded in order of date of receipt of applications suitable for processing.

EVALUATION PREPARED BY

(Date) _____ (Name and title)

The above ratings have been assigned with my approval:

(Date) _____ Director, Operations Division Area Office or Chief Underwriter, Insuring Office

Effective date. This part shall be effective February 7, 1972.

RICHARD C. VAN DUSEN,
Under Secretary, Department of Housing and Urban Development.

[FR Doc.72-150 Filed 1-6-72;8:45 am]

MISCELLANEOUS AMENDMENTS

In the recodification and republication of the regulations of the Department of Housing and Urban Development appearing at 36 F.R. 24402, December 22, 1971, miscellaneous amendments originally published at 36 F.R. 23799, December 15, 1971 and 36 F.R. 24056, December 18, 1971, were omitted. These amendments are reprinted below without change except to renumber them where necessary to conform to the new codification of Title 24 of the Code of Federal Regulations:

PART 200—INTRODUCTION

1. In § 200.77, paragraphs (n), (x), (aa)(3), and (cc)(3) are amended and paragraphs (jj), (kk), and (ll) are added to read as follows:

§ 200.77 Assistant Commissioner-Comptroller and Deputy.

* * * * *

(n) To keep, or cause to be kept under

his direction, a seal of the Department of Housing and Urban Development; to certify as to delegations of authority by the Assistant Secretary-Commissioner, and as to the truth or accuracy of copies of original papers or documents in the possession of the FHA; to prepare and execute, or cause to be prepared and executed, certified and notarized affidavits for the use of U.S. Attorneys in presenting the fiscal status of Secretary-held mortgages at foreclosure trials, and to maintain the Archives files of FHA.

* * * * *

(x) To take any action authorized to be taken by any division or office within his jurisdiction.

* * * * *

(aa) * * *

(3) To collect, or cause to be collected, the loan repayments and interest thereon, and to execute, or cause to be executed, the satisfaction of loan and trust agreements when the loan indebtedness has been paid in full or canceled.

* * * * *

(cc) * * *

(3) To collect, or cause to be collected, the loan repayments, and to execute, or cause to be executed, the satisfaction of loan and trust agreements when the loan indebtedness has been paid in full or canceled.

* * * * *

(jj) To establish and maintain, or cause to be established and maintained under his direction, an account for the deposit of Excess Rental Income collected under section 236 of the National Housing Act.

(kk) To prepare and execute, or cause to be prepared and executed, certified statements of account on Secretary-held home properties for the General Counsel as requested by the Department of Justice.

(ll) To execute, or cause to be executed, agreements with mortgagors that provide for the deposit of the mortgagors' reserve for replacement funds in federally insured depositories when the Secretary is the holder of a multifamily mortgage; to open, or cause to be opened, for this purpose appropriate accounts with federally insured depositories and to deposit and withdraw, or cause to be deposited and withdrawn, funds in these accounts.

2. In § 200.78, paragraphs (g), (k)(3) and (m)(3) are amended and paragraphs (p), (q), (r), and (s) are added to read as follows:

§ 200.78 Director Accounting Division and Deputy.

(g) To endorse mortgage notes for insurance; to take any action necessary to consummate the sale of Secretary-held mortgages to purchasers of such mortgages, and to execute the satisfactions of Secretary-held mortgages when the mortgage indebtedness has been paid in full.

(k) * * *

(3) To collect the loan repayments and interest thereon, and to execute the satisfaction of the loan and trust agreements when the loan indebtedness has been paid in full or canceled.

* * * * *

(m) * * *

(3) To collect the loan repayments and to execute the satisfaction of loan and trust agreements when the loan indebtedness has been paid in full or canceled.

* * * * *

(p) To prepare and execute certified and notarized affidavits for the use of U.S. Attorneys in presenting the fiscal status of Secretary-held mortgages at foreclosure trials.

(q) To establish and maintain an account for the deposit of Excess Rental Income collected under section 236 of the National Housing Act.

(r) To issue duplicate or corrective Mortgage Insurance Certificates in connection with mortgages insured under the Government National Mortgage Association and/or Federal National Mortgage Association direct sales program.

(s) To prepare and execute certified statements of account on Secretary-held home properties for the General Counsel as requested by the Department of Justice.

3. In § 200.79, paragraph (q) is added to read as follows:

§ 200.79 Director Insurance Division and Deputy.

* * * * *

(q) To execute agreements with mortgagors that provide for the deposit of the mortgagors' reserve for replacement funds in federally insured depositories when the Secretary is the holder of a multifamily mortgage; to open for this purpose appropriate accounts with federally insured depositories and to deposit and withdraw funds in these accounts.

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

4. In § 201.2, paragraph (c) is amended to read:

§ 201.2 Eligible notes.

* * * * *

(c) *Payments.* The note shall be payable in equal installments falling due monthly or every 2 weeks, unless a different payment schedule is approved by the Commissioner. The first payment shall be due no later than 2 months from the date of the note. Where the borrower has an irregular flow of income, the note may be payable at intervals corresponding with the borrower's flow of income, and in such instance, the first payment shall fall due no later than 1 year from the date of the note with subsequent payments to be made at least once a year. The note may provide for a first or final payment in an amount other than the regular installment. In such instance, the installment shall not be less than one-half nor more than 1½ times the amount of the regular installment.

* * * * *

5. In § 201.5, paragraph (e) is amended to read:

§ 201.5 Credits and collections.

* * * * *

(e) *Prior approval by Commissioner.* In connection with all class 1 and class 2 loans, the approval of the Commissioner is required prior to disbursing any loan which will increase the total obligation of a borrower, or of a comaker or cosigner of the note, to more than $15,000 exclusive of financing charges.

* * * * *

6. In § 201.6, paragraph (g) is redesignated as paragraph (h) and a new paragraph (g) is added to read:

§ 201.6 Eligible loans.

* * * * *

(g) *Use of proceeds—Carpeting.* Any part of the proceeds of a loan may be used for the installation of carpeting provided that:

(1) The carpeting meets minimum standards prescribed by the Commissioner.

(2) The carpeting will be in fact installed and affixed so as to become a permanent part of the real estate.

(3) The improved property is a residential structure owned by the borrower or is held under a lease having an original term of not less than 99 years which is renewable.

(4) Prior to disbursing the proceeds, the insured obtains (i) a certification signed by the borrower stating that the borrower is the owner of the property to be improved or a lessee under a lease which has an original term of not less than 99 years and is renewable, and that it is the borrower's intention to install and affix the carpeting so that it will become a permanent part of the real property and will not be installed in the kitchen, bathroom or patio, and (ii) an additional certification signed by the dealer or seller certifying that the carpeting meets minimum standards prescribed by the Commissioner.

* * * * *

7. In § 201.9, paragraph (e) is deleted as follows:

§ 201.9 Refinancing.

* * * * *

(e) *Deferred payments.* [Deleted]

8. In § 201.11, paragraph (e) is amended by adding a new subparagraph (4)(iii) to read:

§ 201.11 Claims.

* * * * *

(e) *Claim amount.* * * *

(4) * * *

(iii) $25 for expenses in recording of assignments of security to the United States.

* * * * *

PART 275—LOW-RENT PUBLIC HOUSING

9. In Part 275, the appendix (formerly published as the appendix to Chapter III, 36 F.R. 8213–8232, May 1, 1971) is amended by deleting the Newark, Asbury Park, North Bergen, and Freehold, N.J. schedules under Region II and substituting the revised prototype per unit costs as follows:

PROTOTYPE PER UNIT COST SCHEDULE

REGION II

	Number of bedrooms						
	0	1	2	3	4	5	6
Newark, N.J.:							
Detached and semi-detached	10,900	13,000	14,450	17,200	20,700	23,000	24,100
Row dwellings	10,450	12,400	13,750	16,350	19,700	21,950	22,950
Walk-up	10,350	12,850	14,600	17,300	20,050	22,100	23,250
Elevator-structure	14,700	17,100	21,600				
Asbury Park, N.J.:							
Detached and semi-detached	10,900	13,000	14,450	17,200	20,700	23,000	24,100
Row dwellings	10,450	12,400	13,750	16,350	19,700	21,950	22,950
Walk-up	10,350	12,850	14,600	17,300	20,050	22,100	23,250
Elevator-structure	14,100	16,400	20,700				
North Berren, N.J.:							
Detached and semi-detached	10,900	13,000	14,450	17,200	20,700	23,000	24,100
Row dwellings	10,450	12,400	13,750	16,350	19,700	21,950	22,950
Walk-up	10,350	12,850	14,600	17,300	20,050	22,100	23,250
Elevator-structure	14,700	17,100	21,600				
Freehold, N.J.:							
Detached and semi-detached	10,900	13,000	14,450	17,200	20,700	23,000	24,100
Row dwellings	10,450	12,400	13,750	16,350	19,700	21,950	22,950
Walk-up	10,350	12,850	14,600	17,300	20,050	22,100	23,250
Elevator-structure	14,100	16,400	20,700				

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

[FR Doc.72-274 Filed 1-6-72;8:47 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

PART 231—GRAZING

1972 Grazing Fees

Section 231.5 of Title 36, Code of Federal Regulations, is amended by revising subparagraph (4) of paragraph (a) to read as follows:

§ 231.5 Fees, payments, and refunds or credits.

(a) *Fees.* * * *

(4) Conversion to 1966 base rates for the National Forests in the six western Forest Service Regions will be carried out during a 12-year period beginning in 1969. The difference between fees paid in 1966 and the 1966 base rate of $1.23 will be made in installments of 10 percent per year, except for the years 1970 and 1972. Installments were made in 1969 and 1971. Increases or decreases in the base rate because of changes in the index of private grazing land lease rates will be made each year, except for the years 1970 and 1972. Fees in 1972 will be increased in each fee area by 3 percent over the 1971 fee levels, except that in no case will a fee be increased above the 1972 fair market value. Changes in the fair market value between 1966 and 1971 increased the base rate by 14 cents to $1.37 per animal unit month in 1972. Fees which had previously been established through appraisals and were above the 1966 base rate in 1969 were reduced to fair market value in 1969. Fees which have been established by competitive bid will remain unchanged during the period specified in the bid. Fees on National Grasslands and Land Utilization Projects will be limited in 1972 to a 3 percent increase above their 1971 levels.

* * * * *

(Sec. 1, 30 Stat. 35, as amended, sec. 1, 33 Stat. 628; 16 U.S.C. 551, 472; sec. 32, 50 Stat. 525, as amended; 7 U.S.C. 1011; sec. 501, 65 Stat. 290, 5 U.S.C. 140)

Limiting the fee increase to 3 percent will serve to hold the line on ranch operating costs in 1972 and will thereby support the President's Economic Stabilization Program.

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (1-7-72).

It is the policy of the Department of Agriculture to give notice of proposed rule making and to invite the public to participate in rule making except where such participation would be impracticable, unnecessary, or contrary to the public interest (36 F.R. 13804, July 24, 1971). In amending its regulations to establish the fee for the 1972 fee year for grazing livestock on the public lands administered by the Department of the Interior, that Department has concluded that proposed rule making is impracticable and not in the public interest since it would delay timely issuance of grazing leases and licenses because the billing of affected livestock operators could not be accomplished until some time in late February or early March 1972. Inasmuch as it is necessary to afford uniform treatment to lands administered by the Department of the Interior and this Department, it is also found impracticable and not in the public interest for the Department of Agriculture to follow proposed rule making procedures.

T. K. COWDEN,
Assistant Secretary of Agriculture.

JANUARY 4, 1972.

[FR Doc.72-262 Filed 1-6-72;8:47 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

SUBCHAPTER M—POSTAL SERVICE DEBT OBLIGATIONS

PART 760—APPLICABILITY OF TREASURY DEPARTMENT REGULATIONS

PART 761—BOOK-ENTRY PROCEDURES

Authority Implementation of Postal Service To Borrow Money By Selling Securities

Section 2005 of title 39, United States Code, authorizes the Postal Service to issue and sell obligations as it deems necessary to carry out the purposes of the Postal Reorganization Act. In preparing to implement this authority the Postal Service has made arrangements for such securities to be held in book-entry form if they are deposited in qualified accounts with the Federal Reserve Bank of New York. Part 761 of the following regulations, which is patterned after Subpart O of Treasury Department Circular No. 300 (Subpart O of 31 CFR Part 306, as amended 36 F.R. 6749), therefore provides the legal authority for the holding of postal securities on a book-entry basis. The Postal Service understands that certain revisions in Subpart O are currently under consideration. Such revisions will presumably be incorporated into Part 761 when and if issued. In view, however, of the forthcoming offering of postal obligations, the terms of which provide for a book-entry option, it appears desirable to promulgate the regulations in their present form and to make changes later rather than to sell the bonds without any extent regulation on book-entry.

Part 760 of the regulations generally applies other parts of Treasury Department Circular No. 300 (31 CFR Part 306) to the Postal Service.

Accordingly, a new Subchapter M (previously reserved) is added to Title 39, Code of Federal Regulations, to read as follows:

§ 760.1 Treasury Department regulations; applicability to Postal Service.

The provisions of Treasury Department Circular No. 300, 31 CFR Part 306 (other than Subpart O), as amended from time to time, shall apply insofar as appropriate to obligations of the U.S. Postal Service to the extent they are consistent with the Trust Indenture of the Postal Service and the agreement between the Postal Service and the Federal Reserve Bank of New York acting as

Fiscal Agent of the United States on behalf of the Postal Service. Definitions and terms used in Treasury Department Circular 300 should be read as though modified to effectuate the application of the regulations to the U.S. Postal Service.

(39 U.S.C. secs. 401; 402; 2005)

Sec.
761.1 Definition of terms.
761.2 Authority of Reserve Bank.
761.3 Scope and effect of book-entry procedure.
761.4 Pledges.
761.5 Limitations on transfers or pledges.
761.6 Withdrawals and transfers.
761.7 Delivery of Postal Service securities.
761.8 Registered bonds and notes.
761.9 Servicing book-entry Postal Service securities; payment of interest, payment at maturity or upon call.

AUTHORITY: The provisions of this Part 761 are issued under 39 U.S.C. secs. 401; 402; 2005.

§ 761.1 Definition of terms.

In this part, unless the context otherwise requires or indicates:

(a) "Reserve Bank" means the Federal Reserve Bank of New York as Fiscal Agent of the United States acting on behalf of the Postal Service and when indicated acting in its individual capacity.

(b) "Postal Service security" means any obligation of the Postal Service issued under 39 U.S.C. sec. 2005, in the form of a definitive Postal Service security or a book-entry Postal Service security.

(c) "Definitive Postal Service security" means a Postal Service security in engraved or printed form.

(d) "Book-entry Postal Service security" means a Postal Service security in the form of an entry made as prescribed in these regulations on the records of the Reserve Bank.

(e) "Pledge" includes a pledge of, or any other security interest in, Postal Service securities as collateral for loans or advances or to secure deposits of public monies or the performance of an obligation.

(f) "Date of call" is the date fixed in the authorizing resolution of the Board of Governors of the Postal Service on which the obligor will make payment of the security before maturity in accordance with its terms.

(g) "Member bank" means any national bank, State bank, or bank or trust company which is a member of the Reserve Bank.

(h) "Book-entry custodian" means a bank, banking institution, financial firm, or similar party, which (1) regularly accepts in the course of its business Postal Service securities as a custodial service for customers, (2) maintains accounts in the name of such customers reflecting ownership of or interest in such securities which are deposited in a book-entry account under § 761.3(a)(3) with such customers' consent, and (3) complies with the procedures and conditions for maintaining such accounts prescribed by the Reserve Bank.

§ 761.2 Authority of Reserve Bank.

The Reserve Bank is hereby authorized, in accordance with the provisions of this part, to (a) issue book-entry Postal Service securities by means of entries on its record which shall include the name of the depositor, the amount, the loan title (or series) and maturity date; (b) effect conversions between book-entry Postal Service securities and definitive Postal Service securities; (c) otherwise service and maintain book-entry Postal Service securities; and (d) issue a confirmation of transaction in the form of a written advice (serially numbered or otherwise) which specifies the amount and description of any securities, that is, loan title (or series) and maturity date, sold or transferred and the date of the transaction.

§ 761.3 Scope and effect of book-entry procedure.

(a) The Reserve Bank as Fiscal Agent of the United States acting on behalf of the Postal Service may apply the book-entry procedure provided for in this part to any Postal Service securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve Bank will continue to maintain such deposit accounts in its individual capacity, notwithstanding application of the book-entry procedure to such securities. This paragraph is applicable, but not limited, to securities deposited:

(1) As collateral pledged to the Reserve Bank (in its individual capacity) for advances by it;

(2) By a member bank for its sole account;

(3) By a member bank held for the account of its customers;

(4) In connection with deposits in a member bank of funds of States, municipalities, or other political subdivisions; or,

(5) In connection with the performance of an obligation or duty under Federal, State, municipal, or local law, or judgments or decrees of courts. The application of the book-entry procedure under this paragraph shall not derogate from or adversely affect the relationships that would otherwise exist between the Reserve Bank in its individual capacity and its depositors concerning any deposits under this paragraph. Whenever the book-entry procedure is applied to such Postal Service securities, the Reserve Bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve Bank in its individual capacity to perform its obligations as depository with respect to such Postal Service securities.

(b) The Reserve Bank as Fiscal Agent of the United States acting on behalf of the Postal Service may apply the book-entry procedure to Postal Service securities deposited as collateral pledged to the United States under Treasury Department Circulars Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other Postal Service securities deposited with the Reserve Bank as Fiscal Agent of the United States.

(c) Any person having an interest in Postal Service securities which are deposited with the Reserve Bank (in either its individual capacity or as Fiscal Agent) for any purpose shall be deemed to have consented to their conversion to book-entry Postal Service securities pursuant to the provisions of this part, and in the manner and under the procedures prescribed by the Reserve Bank.

(d) No deposits shall be accepted under this section on or after the date of maturity or call of the securities.

§ 761.4 Pledges.

(a) (1) A pledge of book-entry Postal Service securities maintained under § 761.3 is effected, notwithstanding any provisions of law to the contrary, by the Reserve Bank making an appropriate entry in its records of the amount of the securities pledged.

(2) In addition, a pledge of transferable book-entry Postal Service securities maintained under § 761.3(a)(3), or under any other provisions of § 761.3 to the extent and in the manner provided under procedures prescribed by the Reserve Bank maintaining the book-entry Postal Service securities, may be affected by (i) the making of appropriate entries on the books of a member bank or other book-entry custodian which evidence that such Postal Service securities are held by it for the account of the pledgee, and (ii) issuance by such member bank or book-entry custodian of an advice directed to the pledgee reflecting such entries and acknowledging such holding.

(b) The making of such entries under paragraph (a) of this section, and issuance of any required advice as provided for in paragraph (a)(2) of this section, (1) shall have the effect of a delivery of definitive Postal Service securities in bearer form in the amount of the obligations pledged; (2) shall have the effect of a taking of delivery by the pledgee; (3) shall effect a perfected security interest therein in favor of the pledgee; and (4) shall constitute such pledgee a holder.

(c) No filing or recording with a public recording office or officer shall be necessary to perfect any pledge in any book-entry Postal Service securities under this part.

(d) The Reserve Bank shall, upon receipt of appropriate instructions, convert book-entry Postal Service securities into definitive Postal Service securities and deliver them to its depositor; and the pledge interest of the pledgee in such book-entry Postal Service securities prior to conversion to definitive securities shall continue without interruption to be fully effective with respect to such definitive securities.

§ 761.5 Limitations on transfers or pledges.

Except as provided in this part, book-entry Postal Service securities may not

be assigned, transferred, hypothecated, pledged as collateral, or used as security for the performance of an obligation.

§ 761.6 Withdrawals and transfers.

(a) (1) Withdrawals and transfers of book-entry Postal Service securities may be made upon a depositor of the Reserve Bank requesting (i) delivery of like definitive Postal Service securities to itself or on its order to a transferee, or (ii) transfer to any transferee eligible to maintain a book-entry account in its name with the Reserve Bank under § 761.3.

(2) In addition, a transfer of transferable book-entry Postal Service securities maintained under § 761.3(a)(3) may be effected, by (i) the making of appropriate entries on the books of a member bank or other book-entry custodian which evidence that such Postal Service securities are held by it for account of the transferee, and (ii) issuance by such member bank or book-entry custodian of an advice directed to the transferee reflecting such entries and acknowledging such holding.

(b) The transfer of book-entry Postal Service securities as provided in this section shall have the same effect as a delivery to the transferee of definitive Postal Service securities in bearer form. The transfer of book-entry Postal Service securities within the Reserve Bank will be made in accordance with procedures established by the latter not inconsistent with this part.

(c) All requests for withdrawal or for transfer must be made prior to the maturity or date of call of the securities. Postal Service securities which are actually to be delivered upon withdrawal or transfer may be issued either in registered or in bearer form.

§ 761.7 Delivery of Postal Service securities.

The Reserve Bank shall be fully discharged of its obligations under this part by the delivery of Postal Service securities in definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other book-entry custodian may receive Postal Service security in definitive form only by making an appropriate demand to such member bank or book-entry custodian.

§ 761.8 Registered bonds and notes.

Registered Postal Service securities deposited after the effective date of these regulations with the Reserve Bank for any purpose specified in § 761.3 shall be assigned for conversion to book-entry Postal Service securities. The assignment, which shall be executed in accordance with the provisions of Part 760 of this subchapter and Subpart F of 31 CFR Part 306, so far as applicable, shall be to "Federal Reserve Bank of New York, as Fiscal Agent of the United States acting on behalf of the Postal Service for conversion to book-entry Postal Service securities."

§ 761.9 Servicing book-entry Postal Service securities; payment of interest, payment at maturity or upon call.

Interest becoming due on book-entry Postal Service securities shall be charged in the Postal Service Fund on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged in the Postal Service Fund on the date of maturity, call or advance refunding, and the redemption proceeds, principal and interest, shall be disposed of in accordance with the depositor's instructions.

LOUIS A. COX,
Solicitor.

[FR Doc.72-296 Filed 1-6-72;8:51 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular No. 2319]

PART 4110—GRAZING ADMINISTRATION (INSIDE GRAZING DISTRICTS) (THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS)

Grazing Fees

In conformance with the objectives of the President's Economic Stabilization Program, and pursuant to the authority vested in the Secretary of the Interior by the Taylor Grazing Act (48 Stat. 1269, 43 U.S.C. 315 et seq.), notice is hereby given that the fee for grazing livestock on the public lands for the 1972 fee year is hereby set at 3 percent above that of the current year, and that 50 percent of said fee increase which shall be collected within statutory grazing districts is hereby established as a range improvement fee for the 1972 fee year.

Additionally, 43 CFR 4115.2-1(k)(1)(ii) of the grazing regulations is amended as follows:

§ 4115.2-1 Licenses and permit procedures; requirements and conditions.

* * * * *

(k) *Fees, payments and refunds*—(1) *Fees.* * * *

(ii) Fees will be established by the Secretary in eight equal annual increments, effective with the fee year beginning March 1, 1973, to attain the fair market value of range forage at the 1980 fee year. Fair market value is that value established by the Western Livestock Grazing Survey of 1966 or as determined by a similar study which may be conducted periodically to update the fee base, if deemed necessary. Annual adjustments will also be made for any of the 1973–80 fee years, and thereafter, to reflect current market values.

* * * * *

It is the policy of the Department of the Interior to give notice of proposed rule making and to invite the public to participate in rule making except where such participation would be impracticable, unnecessary, or contrary to the public interest and a specific finding to this effect is published with the rules or regulations (36 F.R. 8336, May 4, 1971). In this case proposed rule making is impracticable and not in the public interest since it would delay timely issuance of grazing leases and licenses because the billing of affected livestock operators could not be accomplished until sometime in late February or early March 1972. The Department's regulations provide that the grazing year shall begin on March 1, 1972, and that no grazing license or permit may be issued until the fees have been paid. The issuance of billings at such a late date would therefore result in disruption of the Department's administration of the Taylor Grazing Act, and would impose an undue burden upon users of the range. In addition, such a delay with attendant price uncertainties would not be consonant with the the President's Economic Stabilization Program.

Effective date: January 7, 1972.

W. T. PECORA,
Acting Secretary of the Interior.

DECEMBER 30, 1971.

[FR Doc.72-263 Filed 1-6-72;8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18643]

PART 89—PUBLIC SAFETY RADIO SERVICES

Operation of Mobile Relay Systems, Fixed Relay Stations and Repeater Stations; Correction

The Commission's Report and Order, FCC 71-1212 (36 F.R. 23567), released December 6, 1971, is corrected by changing paragraphs (b)(3) and (b)(6) of § 89.12 to read as follows:

§ 89.12 Relay, Repeater and Control Stations.

* * * * *

(b) * * *

(3) Each new mobile relay system authorized after January 1, 1972, that is activated by signals below 50 MHz shall be so designed that cessation of reception of the activating continuous coded tone signal will deactivate the station. Licensees may utilize a combination of

digital selection and continuous coded tone control where required to insure selection of only the desired mobile relay station. Additionally, applicants are required to furnish a description of tone codes utilized to the Commission and to the coordinating committees involved.

* * * * *

(6) Each new mobile relay station authorized after January 1, 1972, during periods that it is not controlled from a manned fixed control point, shall be provided with an automatic time delay or clock device that will deactivate the station not more than 3 minutes after its activation by a mobile unit.

* * * * *

Released: December 29, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-277 Filed 1-6-72;8:48 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Chapter III—Federal Highway Administration, Department of Transportation

PART 301—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES OF THE FEDERAL HIGHWAY ADMINISTRATION

Changes in Federal Highway Administration Organization

The Federal Highway Administration has recently undergone changes in its organization. Additional changes will take effect on January 1, 1972, when the boundaries of the Federal Highway Administration's regions will be altered to conform, with slight modifications, to the system of Federal standard regions.

In light of these changes, the Administrator is revising Appendix D to the regulations of the Office of the Secretary pertaining to public availability of information to inform the public of the current locations of document inspection facilities and to supply current, correct designations of organizational elements concerned with public availability of information. The Administrator is also adding a new Part 301 to Chapter III of Title 49, CFR. The new part is intended to contain information relating to the organization of the Federal Highway Administration and the delegations of authority within the Federal Highway Administration.

Since these amendments relate to management, procedures, and practices within the Federal Highway Administration, notice and public procedure are unnecessary, and they are effective on January 1, 1972.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended as set forth below.

The revision of Appendix D to Part 7 in Subtitle A is issued under the authority of section 9 of the Department of Transportation Act, 49 U.S.C. 1657, and the delegation of authority by the Secretary of Transportation at 49 CFR 7.1.

The amendment to Chapter III in Subtitle B is issued under the authority of section 3 of the Department of Transportation Act, 49 U.S.C. 1652, 23 U.S.C. 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48.

Issued on December 27, 1971.

F. C. TURNER,
Federal Highway Administrator.

I. Appendix D to Part 7 of Subtitle A is revised to read as follows:

APPENDIX D—FEDERAL HIGHWAY ADMINISTRATION

1. *General.* This appendix describes the document inspection facilities of the Federal Highway Administration (FHWA), the kinds of records that are available for public inspection and copying at these facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained at FHWA Headquarters, each FHWA regional office, and each FHWA division office. These facilities are open to the public during regular working hours at the following addresses:

WASHINGTON HEADQUARTERS

Federal Highway Administration, Office of the Records Officer, 400 Seventh Street SW., Washington, DC 20590.

REGIONAL OFFICES

Regional Federal Highway Administrator, Region 1, Federal Highway Administration, 4 Normanskill Boulevard (Elsmere), Delmar, NY 12504.

Regional Federal Highway Administrator, Region 3, Federal Highway Administration, 31 Hopkins Plaza, Baltimore, MD 21201.

Regional Federal Highway Administrator, Region 4, Federal Highway Administration, 1720 Peachtree Road NW., Atlanta, GA 30309.

Regional Federal Highway Administrator, Region 5, Federal Highway Administration, 18209 Dixie Highway, Homewood, IL 60430.

Regional Federal Highway Administrator, Region 6, Federal Highway Administration, 819 Taylor Street, Fort Worth, TX 76102.

Regional Federal Highway Administrator, Region 7, Federal Highway Administration, 6301 Rockhill Road, Kansas City, MO 64131.

Regional Federal Highway Administrator, Region 8, Federal Highway Administration, Room 242, Building 40, Denver Federal Center, Denver CO 80225.

Regional Federal Highway Administrator, Region 9, Federal Highway Administration, 450 Golden Gate Avenue, San Francisco, CA 94102.

Regional Federal Highway Administrator, Region 10, Federal Highway Administration, 222 Southwest Morrison Street, Portland, OR 97204.

Eastern Federal Highway Projects Office (Region 15), Federal Highway Administration, 1000 North Glebe Road, Arlington, VA 22201.

DIVISION OFFICES

Alabama, 441 High Street, Montgomery, AL 36104.

Alaska, Federal Building, 709 West Ninth Street, Juneau, AK 99801.

Arizona, Federal Building, 230 North First Avenue, Room 5404, Phoenix, AZ 85025.

Arkansas, Room 3128, Federal Office Building, 700 West Capitol Avenue, Little Rock, AR 72201.

California, Federal Building, Room 270A, 801 I Street, Sacramento, CA 95809.

Colorado, Room 118, Building 40, Denver Federal Center, Denver, Colo. 80225.

Connecticut, 990 Wethersfield Avenue, Hartford, CT 06114.

Delaware, Willard Hall, Second Floor, 6 East Reed Street, Dover, DE 19901.

District of Columbia, Room 1248, Pennsylvania Building, 425 13th Street NW., Washington, DC 20004.

Florida, The Petroleum Building, 223 West Pensacola Street, Tallahassee, FL 32303.

Georgia, 900 Peachtree Street NE., Atlanta, GA 30309.

Hawaii, Pacific International Building, Suite 1002, 677 Ala Moana Boulevard, Honolulu, HI 96803.

Idaho, 3010 West State Street, Boise, ID 83707.

Illinois, 200 West Washington Street, Springfield, IL 62705.

Indiana, Room 707, I.S.T.A. Center, 150 West Market Street, Indianapolis, IN 46204.

Iowa, Second Floor, Post Office Building, Sixth and Kellog Streets, Ames, IA 50010.

Kansas, 512 West Sixth Street, Topeka, KS 66603.

Kentucky, 151 Elkhorn Court, Frankfort, KY 40601.

Louisiana, Federal Office Building, Room 239, 750 Florida Boulevard, Baton Rouge, LA 70801.

Maine, Federal Building, U.S. Post Office, Room 614, 40 Western Avenue, Augusta, ME 04330.

Maryland, Room 206, George H. Fallon Federal Building, 31 Hopkins Plaza, Baltimore, Md. 21201.

Massachusetts, John F. Kennedy Federal Building, Government Center, Room 612, Boston, Mass. 02203.

Michigan, Room 211, Federal Building, Lansing, Mich. 48901.

Minnesota, 461 Rice Street, St. Paul, MN 55103.

Mississippi, 301 North Lamar Street, Jackson, MS 39202.

Missouri, 209 Adams Street, Jefferson City, MO 65101.

Montana, 11th and Fee Streets, Helena, MT 59601.

Nebraska, 1701 South 17th Street, Lincoln, NE 68502.

Nevada, 106 East Adams Street, Carson City, NV 89701.

New Hampshire, Federal Building, 55 Pleasant Street, Concord, NH 03301.

New Jersey, Suburban Square Building, 25 Scotch Road, Trenton, NJ 08628.

New Mexico, 117 U.S. Courthouse, Santa Fe, N. Mex. 87501.

New York, 12-14 Russell Road, Albany, NY 12206.

North Carolina, 310 New Bern Avenue, Raleigh, NC 27611.

North Dakota, New Federal Building, Bismark, N. Dak. 58501.

Ohio, Room 333 Bryson Building, 700 Bryden Road, Columbus, OH 43215.

Oklahoma, 2409 North Broadway, Oklahoma City, OK 73103.

Oregon, Standard Insurance Building, 477 Cottage Street NE., Salem, OR 97308.

Pennsylvania, 228 Walnut Street, Harrisburg, PA 17108.
Puerto Rico, 407 Del Parque Street, Santurce, PR 00912.
Rhode Island, Gardner Building, Third Floor, 40 Fountain Street, Providence, RI 02903.
South Carolina, 2001 Assembly Street, Suite 203, Columbia, SC 29201.
South Dakota, Federal Office Building, Pierre, S. Dak. 57501.
Tennessee, 226 Capitol Boulevard Building, Suite 414, Nashville, TN 37219.
Texas, 826 Federal Office Building, 300 East Eighth Street, Austin, TX 78701.
Utah, New Federal Building, 125 South State Street, Salt Lake City, UT 84111.
Vermont, Federal Building, Montpelier, VT 05602.
Virginia, Federal Building, 10th Floor, 400 North Eighth Street, Richmond, VA 23240.
Washington, 1007 South Washington Street, Olympia, WA 98507.
West Virginia, 2000 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.
Wisconsin, 4502 North Vernon Boulevard, Madison, WI 53705
Wyoming, O'Mahoney Federal Center, 2120 Capitol Street, Cheyenne, WY 82001.

3. *Records available at document inspection facilities.* (a) The following records are available at the FHWA headquarters document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued from within the Federal Highway Administration.

(2) Any policy or interpretation issued within the Federal Highway Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(b) The following records are available at all FHWA document inspection facilities:

(1) *FHWA Orders.* These orders are issued by the Federal Highway Administration and contain policy, instructions, and general guidance.

(2) *FHWA Manuals.* These manuals are issued by the Federal Highway Administration and contain more detailed procedures relating to policies and program responsibilities. They include the following:

(i) Organization Manual.
(ii) Administrative Manual.
(iii) Audit Manual.
(iv) Labor Compliance Manual.
(v) Civil Rights Manual.
(vi) Highway Planning Program Manual.
(vii) Construction Manual.
(viii) Emergency Planning and Operations Manual.
(ix) Research and Development Program Manual.
(x) Right-of-way Operations Manual.

(3) *FHWA Notices.* These notices are issued by the Federal Highway Administration and transmit one-time or short-term announcements or temporary directives (90 days or less).

(4) *Policy and Procedure Memorandums (PPMs).* PPMs state official Federal Highway Administration policy and provide procedural direction.

(5) *Instructional Memorandums (IMs).* IMs are temporary in nature. They are issued by the Federal Highway Administration to state official policies and procedures until such time as those policies and procedures can be incorporated into a directive of a more permanent nature, such as a PPM.

(6) *Highway Safety Standards.* These standards, issued by the Federal Highway Administration, apply to the aspects of State highway safety programs for which responsibility resides in the Federal Highway Administration under the Highway Safety Act of 1966 and delegations of authority by the Secretary of Transportation.

(7) *Motor Carrier Safety Operations Manuals.* These manuals, issued by the Bureau of Motor Carrier Safety, contain details of compliance programs, accident investigations, enforcement programs, and interpretations.

(8) *Motor Carrier Safety Administrative Rulings.*

(9) *Motor Carrier Safety Waivers From Regulations.*

4. *Requests for identifiable records under Subpart E of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, may submit his request, in writing, to any FHWA document inspection facility. If that facility does not have custody of the record, it will forward the request to the appropriate office. Each request must be accompanied by the appropriate fee prescribed in Subpart H of this part.

5. *Reconsideration of determinations not to disclose records.* Any person to whom a record is not made available within a reasonable time after his request, and any person who has been notified that a record he has requested cannot be disclosed, may apply, in writing, to the Associate Administrator for Administration, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 for reconsideration of his request. The decision of the Associate Administrator for Administration is administratively final.

II. Chapter III in Subtitle B is amended by adding a new Part 301 as follows:

Sec.
301.50 Regional offices; general description.
301.52 Jurisdiction of regional offices.

AUTHORITY: The provisions of this Part 301 issued under sec. 3 of the Department of Transportation Act, 49 U.S.C. 1652, 23 U.S.C. 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48.

§ 301.50 Regional offices; general description.

The Federal Highway Administration has regional offices, commonly referred to as Regional Administrations, which are numerically identified as Region 1 and 3 through 10. Each regional office has jurisdiction over a geographical area consisting of a designated group of States. Each regional office is headed by a Regional Federal Highway Administrator (commonly called the Regional Administrator for ease of reference), who is assisted by a regional headquarters staff of legal, administrative, and program specialists, and who is responsible for directing at local levels the Federal Highway Administration responsibilities for administration of the direct Federal, Federal-aid, and other highway and traffic safety programs, as well as the motor carrier safety programs.

§ 301.52 Jurisdiction of regional offices.

The specific composition of each Federal Highway Administration region is as follows:

Region No.	Territory included	Location of regional office
1 [1]	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, and Vermont.	4 Normanskill Blvd., Delmar, NY 12054.
3	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.	31 Hopkins Plaza, Baltimore, MD 21201.
4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.	1720 Peachtree Rd. NW., Atlanta, GA 30309.
5	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	18209 Dixie Highway, Homewood, IL 60430.
6	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.	819 Taylor St., Fort Worth, TX 76102.
7	Iowa, Kansas, Missouri, and Nebraska.	Post Office Box 7186, Country Club Station, Kansas City, MO 64113.
8	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.	Room 242, Bldg. 40, Denver Federal Center, Denver, CO 80225.
9	Arizona, California, Hawaii, and Nevada.	450 Golden Gate Ave., San Francisco, CA 94102.
10	Alaska, Idaho, Oregon, and Washington.	222 Southwest Morrison St., Portland, OR 97204.

[1] Conforms to Standard Federal Regions 1 and 2.

[FR Doc.72-186 Filed 1-6-72;8:45 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 246]

PART 1002—FEES

Fees for Services Performed in Connection With Licensing and Related Services

Present: George M. Stafford, Chairman, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding (36 F.R. 11294, 17432), and;

It appearing, that by report and order of May 19, 1971, reported at 339 ICC 555, as modified by order of August 17, 1971, the Commission, prescribed fees and regulations covering services performed in connection with licensing and related services;

It further appearing, that by order of August 17, 1971, the effective date of the fees and regulations described in the preceding paragraph was indefinitely postponed after it appeared that the President of the United States by executive order of August 15, 1971, entitled Providing For Stabilization of Prices, Rents, Wages, and Salaries, among other things, had ordered a stabilization of prices for services for a period of 90 days from the

date of the said order, at the level generally prevailing during the 30-day period ending August 14, 1971, as more fully described in the said order; and good cause appearing therefor:

It is ordered, That the said order of postponement entered August 17, 1971, be, and it is hereby, vacated and set aside.

It is further ordered, That the effective date of the fees and regulations prescribed in the report and order of the Commission of May 19, 1971, reported at 339 ICC 555, as modified by the said modifying order of August 17, 1971, be, and it is hereby, fixed as January 12, 1972.

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 5th day of January 1972.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-335 Filed 1-6-72;10:18 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 2800, 2810]

RIGHTS-OF-WAY TERMS AND CONDITIONS

Extension of Time

On page 18953 of the FEDERAL REGISTER of September 24, 1971, there was a notice and text of a proposed amendment to Part 2800 of Title 43 of the Code of Federal Regulations. The proposed amendment is to provide for: (1) Protection of the environment; (2) preservation of other resource values in a multiple-use management program; (3) public safety; and (4) equal employment opportunity on rights-of-way across public lands administered by the Bureau of Land Management.

Interested persons were given until October 26, 1971, to submit written comments, suggestions, or objections respecting the amendment to the Bureau of Land Management (210), Department of the Interior, 18th and C Streets NW., Washington, DC 20240.

The period for submitting written comments, suggestions, or objections is hereby extended until February 29, 1972.

HARRISON LEESCH,
Assistant Secretary of the Interior.

DECEMBER 30, 1971.

[FR Doc.72-249 Filed 1-6-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Service

[7 CFR Part 301]

EUROPEAN CHAFER

Notice of Public Hearing and Proposed Rule Making for Extending Quarantine to States of New Jersey, Ohio, and Rhode Island, or Alternatively Terminating the Quarantine

Notice is hereby given of a public hearing, under the authority of sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), to determine whether it is necessary to extend the European chafer quarantine and regulations (7 CFR 301.77, 301.77-1 et seq.) to the States of New Jersey, Ohio, and Rhode Island, or to terminate the quarantine and regulations.

Further, notice is hereby given under the administrative procedure provisions of 5 U.S.C. 553, that the Animal and Plant Health Service proposes if it is determined that such action is necessary, to terminate the European chafer quarantine and regulations or to amend the European chafer quarantine and regulations by adding New Jersey, Ohio, and Rhode Island to the States designated as quarantined and specifying regulated areas in said States for purposes of the regulations.

The Administrator has received information that the European chafer, *Amphimallon majalis* (Razoumowsky), a dangerous insect injurious to cultivated crops, lawns, and pastures has been discovered in certain parts of the States of New Jersey, Ohio, and Rhode Island. The States of Connecticut, Massachusetts, New, York, and Pennsylvania are currently quarantined under said Acts because of this pest.

Under the proposal to extend the European chafer quarantine and regulations to the States of New Jersey, Ohio, and Rhode Island, movement of the following articles from the regulated portions of said States into or through any other State, Territory, or District of the United States, and related activities, generally would be restricted: (1) Soil, compost, decomposed manure, humus, muck, and peat, separately or with other things; (2) plants with roots, except soil-free aquatic plants, moss, and Lycopodium (clubmoss, ground pine, running pine); (3) grass sod; (4) plant crowns and roots for propagation; (5) true bulbs, corms, rhizomes, and tubers of ornamental plants, when freshly harvested or uncured; (6) used mechanized soil-moving equipment; and (7) any other products, articles, or means of conveyance of any character whatsoever when it is determined by an inspector that they present a hazard of spread of the European chafer, and the person in possession thereof has been so notified.

However, if it should be determined that the provisions of the quarantine and regulations are no longer necessary to prevent the spread of the European chafer as a dangerous insect infestation, the Service proposes to terminate such provisions.

A public hearing to consider the above proposals will be held before a representative of the Animal and Plant Health Service in Room 171, Administration Building, Social Security Headquarters, 6401 Security Boulevard, Baltimore, MD, at 10 a.m., e.s.t., on February 7, 1972, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals.

Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, on or before February 7, 1972, or with the presiding officer at the hearing. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

After consideration of all information presented at the hearing or otherwise available to the Department, a determination will be made as to whether the quarantine will be terminated or extended.

Done at Washington, D.C., this 3d day of January 1972.

F. J. MULHERN,
Administrator,
Animal and Plant Health Service.

[FR Doc.72-253 Filed 1-6-72;8:49 am]

[7 CFR Part 301]

GYPSY MOTH AND BROWNTAIL MOTH

Notice of Public Hearing and Proposed Rule Making for Extending Quarantine to Certain Other States and on Proposal to Add Certain Articles to the List of Gypsy Moth Regulated Articles

Notice is hereby given of a public hearing under the authority of sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), to determine whether it is necessary to quarantine the States of Alabama, Delaware, Florida, Maryland, North Carolina, Ohio, South Carolina, Virginia, Wisconsin, and the District of Columbia because of the gypsy moth and to determine whether it is necessary to add to the list of gypsy moth regulated articles, under specified circumstances, mobile homes, and other recreational-type vehicles, and associated equipment.

Further notice is hereby given, under the administrative procedure provisions of 5 U.S.C. 553, that the Animal and Plant Health Service proposes to amend the gypsy moth and browntail moth quarantine and regulations (7 CFR 301.45, 301.45-1 et seq.) by adding Alabama, Delaware, Florida, Maryland, North Carolina, Ohio, South Carolina, Virginia, and Wisconsin, and the District of Columbia, to the list of States designated as quarantined against the spread of the gypsy moth and specifying regulated areas in said States and District for purposes of the regulations, and proposes to amend the list of gypsy moth regulated articles to add mobile homes, and other recreational-type vehicles, and associated equipment, under specified circumstances, if it is determined that such action is necessary.

The Administrator of the Animal and Plant Health Service has received information that the gypsy moth, *Porthetria dispar*, a dangerous insect injurious to forest and shade trees, has been discovered in certain parts of the States of Alabama, Delaware, Florida, Maryland, North Carolina, Ohio, South Carolina, Virginia, Wisconsin, and the District of Columbia. The States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont are currently quarantined under said Acts because of this pest.

The gypsy moth and browntail moth quarantine and regulations regulate the interstate movement from the regulated area in any quarantined State into or through any other State, Territory, or District of the United States of the following gypsy moth regulated articles: (1) Trees, shrubs with persistent woody stems, and parts of such trees and shrubs, except seeds, fruits, and cones; (2) timber and timber products, including but not limited to lumber, planks, poles, logs, cordwood, and pulpwood; (3) stone and quarry products; and (4) any other products, articles, or means of conveyance of any character whatsoever when it is determined by an inspector that they present a hazard of spread of the gypsy moth and the person in possession thereof has been so notified.

Most of the restrictions apply to the movement of regulated articles from regulated areas. Regulated areas are restricted to portions of the State or District in which infestations have been found or which it is deemed necessary to regulate because of their proximity to infestation, provided that less than an entire State would be designated as a regulated area only if the State is undertaking sufficient quarantine action to prevent the intrastate spread of the gypsy moth and if the regulation of less than an entire State would otherwise be sufficient to prevent the interstate spread of the pest. Effective and practical treatments or other procedures have been developed to allow the interstate movement of regulated articles from regulated areas. The only restriction which would apply to the interstate movement of regulated articles from nonregulated portions of the quarantined States relate to proof of origin of the regulated articles and to safeguarding the articles from infestation if they traverse a regulated area.

In addition, the Administrator of the Animal and Plant Health Service has received information that mobile homes, and other recreational-type vehicles, and associated equipment are likely to spread the gypsy moth after they have visited a park that was not treated against the spread of the gypsy moth. Therefore, the proposed amendment to the regulations involving the said articles would require a certificate or permit issued pursuant to § 301.45–3 of the regulations (7 CFR 301.45–3) prior to any interstate movement of said articles from a park listed in the regulations as hazardous, including interstate movement involving contiguous generally infested areas and suppressive areas.

A public hearing to consider the above proposals will be held before a representative of the Animal and Plant Health Service in Room 171, Administration Building, Social Security Headquarters, 6401 Security Boulevard, Baltimore, Md., at 10 a.m., e.s.t., on February 8, 1972, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals.

Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, on or before February 8, 1972, or with the presiding officer at the hearing. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

After consideration of all information presented at the hearing or otherwise available to the Department, a determination will be made as to whether the quarantine will be extended and the regulations amended.

Done at Washington, D.C., this 3d day of January 1972.

F. J. MULHERN,
Administrator,
Animal and Plant Health Service.

[FR Doc.72-254 Filed 1-6-72;8:49 am]

[7 CFR Part 301]

JAPANESE BEETLE

Notice of Public Hearing and Proposed Rule Making for Extending Quarantine to States of Alabama and Missouri

Notice is hereby given of a public hearing under the authority of sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), to determine whether it is necessary to quarantine the States of Alabama and Missouri because of the Japanese beetle.

Further notice is hereby given, under the administrative procedure provisions of 5 U.S.C. 553, that the Animal and Plant Health Service proposes to amend the Japanese beetle quarantine and regulations (7 CFR 301.48, 301.48–1 et seq.) by adding Alabama and Missouri to the States designated as quarantined and specifying regulated areas in said States for purposes of the regulations, if it is determined that such action is necessary.

The Administrator of the Animal and Plant Health Service has received information that the Japanese beetle, *Popillia japonica*, a dangerous insect injurious to cultivated crops, lawns, and pastures, has been discovered in certain parts of the States of Alabama and Missouri. The States of Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, and the District of Columbia are currently quarantined under said Acts because of this pest.

The Japanese beetle quarantine and regulations regulate the interstate movement from the regulated area in any quarantined State into or through any other State, Territory, or District of the United States of: (1) Soil, compost, decomposed manure, humus, muck, and peat, separately or with other things; (2) plants with roots, except soil-free aquatic plants, moss, and Lycopodium (clubmoss, ground pine, running pine); (3) grass sod; (4) plant crowns and roots for propagation; (5) true bulbs, corms, rhizomes, and tubers of ornamental plants, when freshly harvested or uncured; (6) used mechanized soil-moving equipment; and (7) any other products, articles, or means of conveyance of any character whatsoever when it is determined by an inspector that they present a hazard of spread of the Japanese beetle, and the person in possession thereof has been so notified.

Most of the restrictions apply to the movement of regulated articles from regulated areas. Regulated areas are restricted to portions of the States in which infestations have been found or which it is deemed necessary to regulate because of their proximity to infestation, provided that less than an entire State would be designated as a regulated area only if the State is undertaking sufficient quarantine action to prevent the intrastate spread of the Japanese beetle and if the regulation of less than an entire State would otherwise be sufficient to prevent the interstate spread of the pest. Effective and practical treatments or other procedures have been developed to allow the interstate movement of regulated articles from regulated areas. The only restriction which would apply to the interstate movement of regulated articles from nonregulated portions of the quarantined State relate to proof of origin of the regulated articles and to safeguarding the articles from infestation if they traverse a regulated area.

A public hearing to consider the above proposals will be held before a representative of the Animal and Plant Health Service in Room B, Albert Pick Motor Inn, 300 North Second Street, Memphis, TN, at 10 a.m., c.s.t., on February 15, 1972, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals.

Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782,

on or before February 15, 1972, or with the presiding officer at the hearing. All written submissions received pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

After consideration of all information presented at the hearing or otherwise available to the Department, a determination will be made as to whether the quarantine will be extended.

Done at Washington, D.C., this 3d day of January 1972.

F. J. MULHERN,
Administrator,
Animal and Plant Health Service.

[FR Doc.72-255 Filed 1-6-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

ANTIBACTERIAL INGREDIENTS IN DRUG AND COSMETIC PRODUCTS FOR REPEATED DAILY HUMAN USE

Proposed Statement of Policy

Many over-the-counter drug and cosmetic products intended for repeated daily human use contain one or more antibacterial ingredients, to achieve a specific drug or cosmetic purpose or to act as a preservative or both. Recent reports have raised questions about the widespread use of hexachlorophene in such products. These questions cannot be answered without consideration of the safety and effectiveness, of this entire class of antibacterial ingredients, for daily consumer use over long periods of time.

Any restrictions placed upon the use of one antibacterial ingredient in OTC drug and cosmetic products will undoubtedly result in a corresponding increase in the use of other antibacterial ingredients for the same purposes. Steps must therefore be taken to determine that every antibacterial ingredient intended for chronic daily use is adequately tested for safety.

Questions have also been raised about the medical justification for OTC antibacterial products designed for repeated daily use as prophylaxis against minor skin infections or transmission of disease. Most of these products are effective only against gram positive organisms and provide no protection against gram negative organisms. The total reduction in skin bacteria may not be significant in terms of prophylactic benefit. On the other hand, it is entirely possible that some individuals or conditions may benefit from the antibacterial action of these products, for example, food handlers, populations living under insanitary conditions, other persons subject to constant contact with potential disease-causing bacteria, and perhaps even the population at large. It is apparent that a full evaluation of the medical and scientific information available for this class of products is needed to resolve these issues before any final conclusion may be reached on the safety and effectiveness of these products.

The Food and Drug Administration is not aware of human toxicity produced from the use of hexachlorophene under recommended or normal conditions of use. However, animal studies and abnormal human use have shown toxicity, repeated daily use of drug and cosmetic products containing hexachlorophene has resulted in significant human blood hexachlorophene levels, and the margin of safety between present human exposure and the threshold toxicity level is uncertain. It appears that the toxicity of hexachlorophene is related to its concentration in the blood, and that the amount of hexachlorophene in human blood increases with the amount of exposure to hexachlorophene. Insufficient information is available on the number of consumer products containing hexacholorophene, their patterns of daily use, and the hexachlorophene blood levels resulting from their use singly or in combination. It is therefore prudent to reduce the total human exposure to hexachlorophene, in order to reduce any potential hazard, by eliminating its least important uses until adequate data are available to justify wider use.

Regulation of the use of hexachlorophene in all consumer products applied daily to the skin, whether they be legally classified as drugs or cosmetics, must be undertaken in order to prevent any potential human hazard. Serious consideration must be given not only to the safety and effectiveness of hexachlorophene, but also to the safety and effectiveness of alternative antibacterial ingredients that may be used as substitutes for hexachlorophene in drug and cosmetic products. In some instances, inadequate data are available to evaluate these ingredients. Manufacturers and the Food and Drug Administration must ascertain that such alternative ingredients are adequately tested and shown to be safe and effective prior to marketing.

It is fundamental that no manufacturer of a consumer product has the right to place that product on the market without first substantiating its safety. The marketing of a product constitutes an inherent implied warranty of fitness for its labeled purpose, including safety in use. In the case of a drug, the Federal Food, Drug, and Cosmetic Act requires approval by the Food and Drug Administration prior to marketing unless the drug is generally recognized as safe and effective. In the case of a cosmetic, although the act does not require approval by FDA prior to marketing, it necessarily contemplates that the manufacturer has obtained all data and information necessary and appropriate to substantiate the product's safety before marketing. Any product whose safety is not adequately substantiated prior to marketing may be adulterated, and would in any event be misbranded unless it candidly and prominently warns that the product has not been adequately tested for safety and may be hazardous.

On the basis of the animal and human data presently available on hexachlorophene and on alternative antibacterial ingredients, and in view of the gaps in present knowledge about these ingredients, and pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502(a), (f), (j), 503(b), 505, 601(a), 602(a), (c), 701(a), 52 Stat. 1041, 1050–55 as amended; 21 U.S.C. 321(n), 352(a), (f), (j), 353(b), 355, 361(a), 362(a), (c), 371(a)) and under the authority delegated to him (21 CFR 2.120), the Commissioner proposes to add the following new section to Part 3:

§ 3.____ Antibacterial ingredients in drug and cosmetic products for repeated daily human use.

(a) An OTC drug advisory review panel is being convened under the procedures proposed in the FEDERAL REGISTER of January 5, 1972, to review the safety and effectiveness of all antibacterial ingredients used in OTC drugs for repeated daily consumer use as prophylaxis against minor skin infections or transmission of disease.

(1) On an interim basis, pending completion of such review, such products may contain hexachlorophene as an active ingredient at a level not greater than 0.75 percent. Such products are regarded as new drugs requiring an approved new-drug application. The marketing of these products may be continued if all the following conditions are met:

(i) Within 30 days following the date of publication of this section in the FEDERAL REGISTER, the label bears the statement:

"Caution: Contains Hexachlorophene. For external washing only. Rinse thoroughly."

(ii) Within 60 days following the date of publication of this section in the FEDERAL REGISTER, the holder of an approved new-drug application submits a supplement to provide for the revised label under which a consumer may use the drug safely and effectively.

(iii) Within 90 days following the date of publication of this section in the FEDERAL REGISTER, the holder of an approved new drug application submits a supplement to provide for the reformulation in accord with this section. Appropriate notices to withdraw existing approvals of nonconforming new-drug applications will be prepared for FEDERAL REGISTER publication.

(iv) Within 90 days from the date of publication of this section in the FEDERAL REGISTER, the manufacturer or distributor of such a drug for which a new-drug approval is not in effect submits a new-drug application in accord with § 130.4 of the new-drug regulations (21 CFR 130.4).

(2) On an interim basis, pending completion of such review, OTC drug products may contain hexachlorophene as a preservative at a level that is no higher than necessary to achieve the intended

preservative function, and in no event higher than 0.1 percent. Such use of hexachlorophene shall be limited to situations where an alternative preservative has not yet been shown to be as effective or where adequate integrity and stability data for the reformulated product are not yet available. This use of hexachlorophene will not, by itself, require an approved new drug application. Use of hexachlorophene as a preservative at a level higher than 0.1 percent is regarded as a new-drug use requiring an approved new-drug application, which must be submitted within the time limits set out in subparagraph (1) (ii) and (iii) of this paragraph.

(b) Hexachlorophene may be used as a bacteriostatic skin cleanser, including use of a surgical scrub, and in hospitals or other institutions for infection control, at a level higher than 0.75 percent. Such products are regarded as new drugs requiring a new-drug application and are not suitable for over-the-counter use. The marketing of these products may be continued if all the following conditions are met:

(1) Within 30 days following the date of publication of this section in the FEDERAL REGISTER, the label bears the legend:

"Caution: Federal law prohibits dispensing without prescription."

(2) Within 60 days following the date of publication of this section in the FEDERAL REGISTER, the holder of an approved new-drug application submits a supplement to provide for the revised label and full disclosure information under which a physician may use the drug safely and effectively.

(3) Within 90 days from the date of publication of this section in the FEDERAL REGISTER, the manufacturer or distributor of such a drug for which a new-drug approval is not in effect submits a new-drug application in accord with § 130.4 of the new-drug regulations (21 CFR 130.4).

(c) Hexachlorophene may be used as a preservative in cosmetic products, at a level that is no higher than necessary to achieve the intended preservative function, and in no event higher than 0.1 percent. Such use of hexachlorophene shall be limited to situations where an alternative preservative has not yet been shown to be as effective or where adequate integrity and stability data for the reformulated product are not yet available.

(1) Adequate safety data do not presently exist to justify wider use of hexachlorophene in cosmetics. Until such data are available, all such products shall be reformulated to comply with this subsection.

(2) Antibacterial ingredients used as substitutes for hexachlorophene in cosmetic products, and finished cosmetic products containing such ingredients, shall be adequately tested for safety prior to marketing. Any such ingredient or product whose safety is not adequately substantiated prior to marketing may be adulterated and will in any event be deemed misbranded unless it contains a conspicuous front panel statement that the product has not been adequately tested for safety and may be hazardous.

(d) Shipments of products falling within the scope of paragraph (a), (b), or (c) of this section which are not in compliance with the guidelines stated herein shall be the subject of regulatory proceedings after the effective date of the final order.

To the extent that they are consistent with this publication, the following prior notices are hereby superseded:

DESI No. 4749 (34 F.R. 15389, October 2, 1969), "Certain OTC Drugs for Topical Use," DESI No. 2855 (35 F.R. 12423, August 4, 1970), "Certain Mouthwash and Gargle Preparations," DESI No. 8940 (36 F.R. 14510, August 6, 1971), "Topical Cream Containing Pyrilamine Maleate, Benzocaine, Hexachlorophene, and Cetrimonium Bromide," and DESI No. 6270 (36 F.R. 23330, December 8, 1971), "Certain Preparations Containing Hexachlorophene."

The warning against total body bathing and rinsing thoroughly after use as required by DESI 6270 is not affected by this proposal.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 3, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-209 Filed 1-6-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 146]

[CGFR 71-170]

DANGEROUS CARGOES

Proposed Classification of Etiologic Agents

The Coast Guard is considering amending the dangerous cargoes regulations to add a new classification (etiologic agents) and to prescribe that they cannot be shipped except under special authorization of the Commandant.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identify the notice (CGFR 71-170), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will hold an informal hearing on March 28, 1972, at 9:30 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross-examination of persons presenting statements. It is requested that anyone desiring to attend the hearing notify the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590.

The Commandant will evaluate all communications received before April 4, 1972 and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 25163 of the December 29, 1971 FEDERAL REGISTER (36 F.R. 25163), the Hazardous Materials regulations Board of the Department of Transportation proposes amendments to Part 172 of Title 49, Code of Federal Regulations. For reasons fully stated in that document the Board has proposed these changes.

The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR 146.

In consideration of the foregoing, it is proposed that Part 146 of Title 46 of the Code of Federal Regulations be amended as follows:

1. By adding to § 146.05-4 "List of explosives and other dangerous articles and combustible liquids" in proper alphabetical sequence the following:

Article	Classed as	Label required
Etiologic agent, n.o.s.	Etiologic agent...	Etiologic agent.

2. By revising § 146.05-15 (a), (b), and (e) (1) by adding a new subparagraph (15) to paragraph (g), to read as follows:

§ 146.05-15 Marking and labeling.

(a) Department of Transportation regulations in effect at the time of shipments with respect to the marking and labeling of containers of explosives, inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, poisonous articles, and etiologic agents apply to shippers preparing shipments for transportation or storage on board vessels that are common carrier vessels and subject to the regulations of this part.

(b) Provisions of the regulations of the Department of Transportation with respect to marking and labeling of containers of explosives, inflammable liquids,

inflammable solids, oxidizing materials, corrosive liquids, compressed gases, poisonous articles, and etiologic agents as applicable to shipments thereof on board common carrier vessels are adopted and form part of the regulations in this part for any such shipments on vessels that are not common carriers and shall apply to all shippers preparing such shipments for transportation or storage on board such vessels except as may be otherwise required by the regulations herein.

* * * * *

(e) * * *

(1) Each package containing inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, poisons, and etiologic agents as defined herein shall be marked with the proper shipping name as shown in the commodity list of the regulations in this part. For tank cars this marking shall appear either on the placards or commodity cards. For other than domestic shipments, where the proper shipping name of a commodity is an "N.O.S." entry in the particular table, this marking shall be qualified by the chemical name of the commodity in parentheses e.g. "Corrosive liquid, N.O.S. (caprylyl chloride)."

* * * * *

(g) * * *

(15) The etiologic agent label as described and illustrated in § 146.05–17(w) on packages of etiologic agents except when exempted by the regulations in this part. If the etiologic agent is also a class A poison or a radioactive material the "poison gas" label or "radioactive" label must also be applied to the package.

* * * * *

3. By adding to § 146.05–17 a new paragraph (w):

§ 146.05–17 Labels.

* * * * *

(w) Labels for packages of etiologic agents must be diamond shape, measuring 4 inches (10 cm.) on each side, and white in color. Printing must be black, except for the symbol which is to be red, inside of a black borderline ¼ inch (6 mm.) inside the edge and parallel to the edge as illustrated below:

4. By adding Subpart 146.30 "Detailed regulations governing etiologic agents" as follows:

Subpart 146.30—Detailed Regulations Governing Etiologic Agents

§ 146.30–1 Definition of Etiologic Agents.

An etiologic agent is defined by the DOT regulations as a viable microorganism or its toxin which causes or is suspected to cause human disease. Such definition is binding upon all shippers making shipments of etiologic agents by common carrier vessels engaged in interstate or foreign commerce by water. This definition is accepted and adopted and forms part of the regulations in this subchapter applying to all shippers making shipments of etiologic agents by any vessel, and shall apply to owners, charterers, agents, or other persons transporting, carrying, conveying, storing, stowing, or using etiologic agents on board any vessel subject to R.S. 4472 as amended and this subchapter.

§ 146.30–2 Scope.

The requirements specified in this section are applicable to the packaging and shipment of materials containing or suspected of containing any of the etiologic agents listed in the regulations of the Department of Health, Education, and Welfare (42 CFR 72.25(c)).

§ 146.30–3 Packaging requirements for etiologic agents.

(a) Shipment of packages containing over 4 liters gross volume of an etiologic agent are not authorized, except as specifically approved by the Commandant pursuant to § 146.02–25 of this chapter.

(b) In addition to the requirements of 42 CFR 72.25 (e), (f), and (g), any package containing an etiologic agent must be designed and constructed so that, if it were subject to the environment and test conditions prescribed in this paragraph, there would be no release of the contents to the environment, and the effectiveness of the packaging would not be substantially reduced.

(1) *Environmental conditions*— (i) *Heat.* Direct sunlight in an ambient temperature of 130° F. in still air.

(ii) *Cold.* An ambient temperature of −40° F. in still air and shade.

(iii) *Reduced pressure.* Ambient atmospheric pressure of 0.5 atmosphere (absolute) (7.3 p.s.i.a.).

(iv) *Vibration.* Vibration normally incident to transportation.

(2) *Test conditions*—(i) *Water spray.* A water spray heavy enough to keep the entire exposed surface of the package (except the bottom) continuously wet during a period of 30 minutes. Packages for which the outer layer consists of metal, wood, ceramic, or plastic, or combination thereof, are exempt from this test.

(ii) *Free drop.* A free drop through a distance of 30 feet onto a flat, essentially unyielding horizontal target surface, striking the surface in a position for which maximum damage is expected.

(iii) *Penetration.* Impact of the hemispheric end of a steel cylinder 1.25 inches in diameter and weighing 15 pounds, dropped from a height of 40 inches onto the exposed surface of the package expected to be most vulnerable to puncture. The long axis of the cylinder must be perpendicular to the impacted surface. This test is not required for a package subject to subparagraph (2)(iv) of this paragraph.

(iv) *Penetration (required for packages exceeding 15 pounds gross weight only).* A free drop of the package through a distance of 40 inches, striking the top end of a vertical cylindrical mild steel solid bar on an essentially unyielding surface, in a position for which maximum damage is expected. The bar must be 1.5 inches in diameter. The top of the bar must be horizontal, with its edge rounded to a radius not exceeding ¼ inch. The bar must be of such length as to cause maximum damage to the package, but not less than 8 inches long. The long axis of the bar must be vertical to the unyielding horizontal impact surface of the package.

(3) *Testing procedure.* (i) At least one sample of each type package (maximum size and gross weight), filled with water, must be subjected to the water spray test unless exempted by subparagraph (2)(i) of this paragraph.

(ii) This sample package then must be given the free drop and one of the penetration tests, as applicable. Separate wetted sample packages may be used for the free drop and the penetration test.

(iii) If the sample package is exempted from the water spray test by subparagraph (2)(i) of this paragraph, at least one sample of each type package (maximum size and gross weight), filled with water, must be subjected consecutively to the free drop and the penetration test.

§ 146.30–4 Exemptions.

(a) The following substances are not subject to any requirements of Part 146 of this chapter:

(1) Diagnostic specimens;

(2) Finished biological products for human or veterinary use bearing the U.S. Government license number of the manufacturer; or

(3) Finished biological products shipped prior to licensing for development or investigational purposes in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and rules and regulations promulgated thereunder.

§ 146.30–100 Table K—Classification: Etiologic agents.

Descriptive name of article	Characteristic properties, cautions, markings required	Label required	Required conditions for transportation			
			Cargo vessels	Passenger vessel	Ferry vessel, passenger or vehicle	RR car ferry, passenger or vehicle
Etiologic agents, N.O.S.	*Solutions, cultures, mixtures preparations etc. of solid liquid or gaseous substances which consist of viable microorganisms or toxins thereof, which cause or are expected to cause human disease.*	Etiologic agent.	Can be shipped only under authorization of the Commandant (see §146.02–25).	Not permitted.....	Not permitted.....	Not permitted.

(R.S. 4472, as amended; R.S. 4417a, as amended; sec. 1, 19 stat. 252, 49 stat. 1889, sec. 6(b)(1), 80 stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: December 27, 1971.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72–206 Filed 1–6–72;8:45 am]

Federal Aviation Administration

[14 CFR Parts 43, 91, and 135]

[Docket No. 11437; Notice 71–32A]

LARGE AND TURBINE-POWERED MULTIENGINE AIRPLANES

Extension of Comment Period

The Federal Aviation Administration proposed in Notice 71–32 published in the FEDERAL REGISTER on October 10, 1971 (36 F.R. 19507) to amend Parts 43, 91, and 135 of the Federal Aviation regulations by adding a new Subpart D containing general operating rules and an inspection program for large and turbine-powered multiengine airplanes. As proposed, the inspection program would also apply to turbine-powered multiengine airplanes operated by the holder of an ATCO certificate issued under Part 135.

The National Business Aircraft Association (NBAA) has requested a 30-day extension of time for submission of comments. The extension is requested to enable the NBAA to conduct a broad-scale evaluation and report its findings in order to assist in the FAA's goal of safe aircraft utilization.

I find that the petitioner has shown a substantive interest in the proposed rule and good cause exists for the extension and that the extension is in the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.45), the time within which comments on Notice 71–32 will be received is extended to February 7, 1972.

Issued in Washington, D.C., on January 4, 1972.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[FR Doc.72–291 Filed 1–6–72;8:49 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Dockets No. 1–9 and 1–10]

EXTERIOR PROTECTION

Extension of Time to Comment

The purpose of this notice is to extend the comment period on Notice 9 of Dockets Nos. 1–9 and 1–10 (36 F.R. 23831, December 15, 1971) from January 17, 1972, to March 1, 1972. This action is in response to timely requests filed by General Motors, American Motors, and the Automobile Manufacturers' Association, to allow additional time for development of a response.

Issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on January 3, 1972.

ROBERT L. CARTER,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.72–272 Filed 1–6–72;8:48 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 372a]

[Docket No. 23055]

CHARTER AIR TRAVEL

Proposed New Class

DECEMBER 30, 1971.

For the reasons set forth in the attached explanatory statement, the Board has determined to issue this notice of proposed rule making to consider the amendment of Parts 207, 208, 212, and 214 of its Economic Regulations (14 CFR Parts 207, 208, 212, and 214), and the adoption of a new Part 372a of its Special Regulations (14 CFR Part 372a), establishing a new class of charter to be called "Travel Group Charter." The principal features of the proposals are described in the explanatory statement and the proposed amendments are set forth in the proposed rule. The amendments are proposed under the authority of sections 101(3), 204(a), 401, 402, 407, 416(a), and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended), 757, 766, 771, and 788; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, and 1481.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before February 7, 1972, and reply comments thereon received on or before February 22, 1972, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

By SPDR–22, January 29, 1971 (36 F.R. 2514), the Board gave notice that it was considering issuing a notice of proposed rule making to consider the establishment of a new category of charter tentatively denominated as "Non-Affinity Charter." The Board was of the view that the practice of limiting group charters to groups having a prior affinity may discriminate against persons who are either not members of any charterworthy organizations or are members of organizations to small to mount an extensive and attractive charter program, and embodies a concept very difficult, if not impossible, to enforce. The Board stated that the new class of charter was intended to be applicable to all direct air carriers and foreign air carriers, as an additional alternative to the kinds of affinity charters presently authorized under Parts 207, 208, 212, and 214 of the economic regulations and to inclusive tour charters under Part 378. The essential purpose of the proposed new type of charter rule would be to enable any group of 50 or more persons to form a charter group at least 6 months prior to flight departure, if each member paid by that time a nonrefundable deposit equal

to not less that 25 percent of the transportation charges.[1]

Responses have been received from 10 trunkline carriers, Alaska Airlines, several foreign scheduled carriers, supplemental carriers, the travel agency industry, consumer oriented groups, and airline employee unions.

The scheduled carriers strongly oppose the proposed charter concept. They claim that such charters would cause substantial diversion of traffic from the scheduled services, thereby impairing the entire scheduled service network. The carriers also state that there are no public interest considerations which militate in favor of establishing such charters. In addition, the scheduled carriers argue that the proposed charters cannot be established because they would violate the provisions of the Act.

The supplemental carriers support the charter proposal. They contend that the markets for scheduled and supplemental traffic are separate and distinct, and therefore the scheduled carriers will suffer no diversion from such new charters. The supplemental carriers argue, however, that many of the Board's proposed conditions are overly restrictive.

The vast majority of the travel agency industry supports the proposed charter concept. However, they contend that the proposed prohibition on commissions is totally unacceptable and contrary to the public interest.

Consumer groups voiced their support for the proposal on the basis of need for low cost, charter travel. However, some concern was expressed that the implementing regulations would prove overly restrictive and burdensome.

Unions representing employees of the scheduled carriers argued, in opposition to the proposal, that the new type of charter would divert substantial traffic from the scheduled services, and ultimately force the scheduled carriers to reduce employment.[2]

Upon consideration of the foregoing, the Board has decided to propose and hereby submits for public comment, a charter rule along the lines set forth in the advance notice (SPDR-22).[3] Although we have decided, for reasons discussed below, to redesignate the proposed class of charter as "Travel Group Charter," the proposed rule is based essentially upon the conditions set forth in the advance notice:

Legality of "Travel Group" charters. As indicated above, some of the comments question whether charters for travel groups having no preexisting affinity can be established under the Act. The Board is of the view that the type of charter concept which is reflected in the proposed rules may satisfy the legal requirements of a charter. Traditionally, the question of the legality of charters by, or on behalf of, groups of persons has turned upon a determination whether the charter participants are engaged in bona fide group travel. Group travel, in turn, has connoted some degree of affinity (using that term in its broadest sense) among charter participants.[4] That affinity can be of the "prior affinity" type, as in the case of bona fide members of preexisting chartering organizations; or it can be the type of affinity resulting from the mere fact that the charter participants have been formed into a group which travels together, as in the case of inclusive tours bound by common travel objectives and itineraries.

Thus, under our existing rules, unless persons are willing to participate in a "package tour," at a fixed price which includes the cost of accommodations and services other than the price of the charter, the services are available only to those who are eligible for a pro rata charter flight through membership in a qualified "chartering organization." In the past it has been felt necessary to so restrict charter eligibility in order to assure that charter services do not impinge on scheduled services and that the distinction between individually ticketed services and charter services is maintained. It was believed that a feasible method to achieve this objective was by permitting only those groups which are formed independently of travel oriented purposes to charter aircraft. Otherwise, it was feared, group travel could be used as a subterfuge for what was in fact individually ticketed services.

Nevertheless, it has always been recognized that it may be inherently discriminatory to confine the benefits to persons who happen to belong to groups formed for nontransportation purposes, while members of the general public who do not belong to such groups are ineligible for these benefits. Moreover, enforcement of the affinity charter concept has proven to be very difficult, particularly in the area of assuring that charter participants are in fact bona fide members of a bona fide organization, and because of the ease with which travel promoters have been able to form groups for ostensible nontransportation purposes but which are in fact subterfuges for the furnishing of individually ticketed transportation.

In light of the foregoing, the Board has tentatively concluded that there may be a strong public interest in making group travel charters, other than inclusive tour charters, available to the public on a basis broader than the prior affinity concept, while maintaining the requisite distinction between charter travel and individually ticketed travel. We believe that the proposed travel group charter rules provide the means for accomplishing this purpose.

Our tentative designation of the proposal, in the advance notice, as "Non-Affinity Charters" was not meant to suggest that there is no common bond among the chartering group. That designation simply reflected our acknowledgment of the fact that, in the context of group transportation, the popular and unanalytic usage of the term "affinity" is equated with "prior affinity." Under the proposed rules, the bond among the participants arises, not from their preexisting membership in an organization, but from the fact that they are engaged in a joint undertaking to charter all, or part of, an aircraft for their own transportation, sharing equally in the cost of the transportation. Since the comments received on the advance notice reveal that the designation, "Non-Affinity Charters," has apparently contributed to misunderstanding of the substantive aspects of our proposal, we have decided to replace it with the neutral designation, "Travel Group Charters."

The proposed rule was prepared to conform to the legal requirement that a distinction be maintained between charter service and individually ticketed

---

[1] Other conditions to the new type of charter, as set forth in the advance notice were as follows: (1) 6 months prior to scheduled departure the carrier must file with the Board; (a) a charter contract setting forth the dates of the flights, the price, origin and destination; (b) the names, addresses and telephone numbers of the main list charter participants; (c) a statement that it has received a deposit of 25 percent of the total charter price from the main list participants; and (d) a list of standby members, if any, which list is no larger than three times the size of the main list; (2) the deposits made by main list participants would ordinarily not be refundable unless a replacement participant is obtained; (3) 80 percent of the charter participants must be on the main list and the remaining 20 percent can be secured only from the standby list; (4) within 7 days after flight departure, the carrier must file with the Board a manifest containing the names, addresses and telephone numbers of the charter participants; (5) intermingling of charter participants would be restricted the same as under existing charter rules; (6) solicitation materials shall separately state the cost of ground arrangements, if any, the cost of air transportation, the service charges, and the total cost of the entire trip; (7) there will be no fixed limit on service charges, but they must be broken out separately and prorated equally among the participants; (8) there will be no commissions and no mass media advertising; and (9) split charters will be permitted so that these new charters may be combined with other types of passenger charters.

[2] The representatives of the professional airline pilots employed by certain supplementals (Capitol, Modern, ONA, Saturn, TIA, Universal, and World) filed a motion for permission to file their comments out of time, together with a copy of the comments they wished to file. Good cause not having been shown for the late filing, their comments will not be accepted.

[3] In view of the action taken herein on the proposed rule for charters to groups having no prior affinity, we have determined to defer action on the rule making proceeding which seeks to amend the tariff regulations and the adoption of a statement of policy so as to: (1) Require all air carriers and foreign air carriers to specify in their tariffs the rules applicable to group fare services on scheduled services, and (2) require that conditions related to group fare travel on scheduled services in foreign air transportation (other than inclusive tour basing fares) shall conform to the Board's regulations governing requirements for pro rata charters (EDR-190/PSDR-27).

[4] The term "affinity" in this sense is used to denote that degree of cohesiveness which qualifies a particular number of persons for group travel under charter arrangements. It should be noted that nonaffinity group fare tariffs have been in effect for many years in scheduled services.

service. The pro rata nature of the proposed group travel arrangement distinguishes it from individually ticketed services, since the concept of individually ticketed services has been deemed to imply the sale of tickets at a fixed price, whereas under the instant proposal the passenger does not purchase an individual ticket, but rather becomes a party to the charter contract itself and bears a pro rata share of its cost. Thus, unlike the conventional case of individually ticketed transportation, the cost to the participant in a travel group charter may well vary, depending on the load factor achieved on the flight, and the precise charge may not be known until flight departure. Moreover, the travel group charter participant will have to assume the risk of flight cancellation if a sufficient number of participants do not sign up for the flight, or if there are subsequent defaults by participants who have become parties to the charter contract. The foregoing risks, plus the requirements that the group must be formed at least 6 months prior to the departure date, by which time each main list participant must make a substantial nonrefundable deposit, and that all passengers travel together as a group, on a round trip basis, with no intermingling of persons from other charters and no one-way passengers, appears to distinguish participation in such charters from individually ticketed travel.

Impact on scheduled services. We have taken into account the contentions of the route carriers that the proposed new class of charter will divert vast amounts of traffic from scheduled service and would impair the ability of the scheduled carriers to provide adequate service on their routes. The Board is of the view the rule which we are now proposing will not have such an effect. Undoubtedly the cost savings obtainable through the use of pro rata charters will generate significant additional charter traffic, and may well divert some traffic which would otherwise travel on scheduled services. However, we believe that such diversion may be minimized by the very nature of the proposed regulations. To begin with, the charter participant will be required to make his payment well in advance of the 6-month filing period if the charter is to be organized and the appropriate filings made prior to the 6-month deadline. Secondly, the charter participant will have to commit himself to a nonrefundable 25 percent deposit and in addition will have to assume the risks, previously described, associated with a joint chartering venture, including the risk that the charter will ultimately be canceled or that the price will be higher than he anticipated.

The nonvacationing traveler does not appear to be a likely candidate for a pro rata charter. Nor, in view of the conditions surrounding the proposed travel group charter rules, does it appear that the mainstream of the vacation travelers in the dense North Atlantic market is apt to be diverted to such charters.[5] In our judgment, these charters will tend to attract primarily those price-conscious travelers who might not utilize scheduled services in any event.

The Board wishes to emphasize that, in proposing these travel group charter rules, it has no purpose or intention of impairing the viability of scheduled services. In assessing the contentions of the route carriers that such will be its effect, we cannot ignore the fact that these carriers have in the past made similar predictions in response to proposals to expand the authorization of supplemental air carriers or to liberalize the conditions under which they operate.[6] Notwithstanding these predictions, the traffic carried by route carriers in their scheduled services has continued to grow in the markets most competitive with charters.[7]

Of course, the exact degree of the generation of new traffic and the diversion of existing traffic can be ascertained only after some period of experimentation with the rules.[8] However, the 6-month deadline specified in the regulations for the filing of lists of charter participants, together with the required nonrefundable 25-percent deposit, will require participants to make travel plans as early as the fall preceding the next summer season, and it is not likely, in the Board's judgment, that large numbers of persons who would otherwise utilize individually ticketed services will be in a position to make firm plans that far in advance. If, contrary to our expectations, large scale diversion does begin to threaten, it would be our intention to amend the regulation to provide for an earlier filing date, a higher deposit requirement, or both, if such action appears necessary in order to prevent undue diversion from scheduled services.

We may also note that among the competitive countermeasures which the route carriers will be in a position to take is the mounting of their own travel group charter program, since we are here proposing to authorize all classes of carriers to engage in this type of charter.

Scheme of proposed rules. As previously stated, the basic concept underlying the proposed rules is that of a pro rata charter in which each participant pays his share of the total charter price charged by the direct air carrier. The participants would be brought together by a charter organizer who would be permitted to assess a service charge for performing this function.[9]

The general outline of the proposed rule follows closely that of the advance notice of rule making.[10] Persons eligible for the charter must be on either a main list or a standby list, which must be filed with the Board no later than 6 months prior to departure date. The main list consists of persons who have paid a nonrefundable (but assignable) deposit of 25 percent, and the standby list may not exceed three times the number on the main list. The charter organizer is permitted to solicit from the general public but is not permitted to use mass media advertising.

The operation of a travel group charter would involve several stages, as described in more detail below:

1. Prior to any solicitations, the charter organizer and direct air carrier must first file with the Board a commitment from a direct air carrier to furnish the transportation, copies of the proposed charter contract with the direct air carrier and the proposed contract between the charter organizer and the charter participants, a bond with a surety company, an escrow agreement with a bank into which all moneys would be deposited, and samples of promotional material. Unless advised by the Board that the filing is not in compliance with the regulation, the organizer may begin to solicit the public and receive deposits 15 days after the foregoing documents have been filed.

2. Persons signing the main list would make a deposit of no less than 25 percent of the minimum pro rata charter price, which is computed on the assumption that all seats will be sold. The 25-percent deposit becomes nonrefundable to any participant who wishes to cancel within 7 months of the date of scheduled flight departure. When the charter organizer has accumulated enough names on the main list to fill all of the seats contracted

---

[5] Indeed we would anticipate that much of the travel group charter market will be diverted from the existing charter market, since bona fide groups would form the nucleus for the new charter program, with fill-in passengers coming from friends and relatives of the group members who would not be eligible under the present rules.

[6] Supplemental Air Service Proceeding, Opinion and Order E-23350, March 11, 1966 (mimeo. pp. 13-15); Transatlantic Charter Investigation, 40 CAB 233, 253-256 (1964).

[7] IATA North Atlantic traffic reports 1963-70.

[8] It is for this reason that the Board has tentatively concluded that a hearing on this matter would not serve a useful porpose at this time.

[9] The proposed rule would not regulate the amount of the service charge imposed by the charter organizer other than to require that such charge shall be broken out separately and shall be equal for all participants (§ 372a.22(c), infra). There is also a provision for prohibiting the payment of any commission, fees or other compensation by the direct air carrier to the charter organizer or to any other person in connection with the charter trip (§ 372a.42, infra). However, we are not proposing to preclude a charter organizer from paying any portion of the service charge, or otherwise compensating, any other person who renders services in connection with the travel group charter. It is thus clear that a travel agent may receive commissions from the charter organizer.

[10] In only one respect does the proposed rule differ materially from the one described in the advance notice. Whereas in the advance notice, intermingling of charter participants was to be restricted only to the same extent as under existing charter regulations, the rule we are proposing herein totally prohibits intermingling of charter participants. See § 372a.18, infra.

for, he shall file the main and standby lists with the Board no sooner than 7 months, but no later than 6 months, prior to the date of flight departure. In the event of failure to sign up enough main list participants so as to permit the filing prior to the 6-month deadline, all moneys are refunded to the charter participants and the direct air carrier's option to furnish transportation expires.

It should be noted that although the proposed rule provides (§ 372a.13, infra) for a full refund of a deposit upon cancellation by a charter participant at any time prior to 7 months preceding the scheduled flight departure date, the Board might, upon further consideration, prefer a substitute provision which would make the deposit entirely nonrefundable to a canceling participant. Such a nonrefundable deposit provision would clearly facilitate the administration of travel group charters by the charter organizer and might therefore be regarded as an additional risk which the charter participant could reasonably be expected to assume.

3. No later than 60 day before flight departure each main list participant must pay for the balance of the pro rata charter price, including the organizer's service charge. For this purpose, the balance is computed on the basis of the minimum, or full load, pro rata charter price, plus a discretionary reserve deposit to cover pro rata adjusted increases resulting from defaults. The reserve deposit is refundable to the extent not needed. Upon payment of this balance the total deposit becomes nonrefundable to a canceling participant, unless the entire charter is canceled. Persons failing to pay the billed amount by the 60-day deadline will forfeit their 25-percent deposits.

4. No later than 45 days prior to flight departure, the organizer will compute an adjusted charter price, reflecting any increase in the pro rata charter price resulting from defaults, after crediting the forfeited 25-percent deposits of defaulting participants. If the tentatively adjusted price is 20 percent or more above the price computed on a full-load basis, then the charter must be canceled. In such event, the forfeited deposits of defaulting participants are payable as liquidated damages to the air carrier and the organizer, but all other payments are refunded in full to the main list participants or their assignees.

5. Although, as previously indicated, deposits are nonrefundable to canceling participants within 7 months preceding flight departure, the interest of any participant may be assigned to a person on the standby list, provided that no more than 20 percent of the ultimate flight participants are drawn from the standby list. In order to avoid exceeding the maximum permissible number of assignments, the charter organizer will effect all assignments, for which he may charge the assignor a 5-percent transfer fee.

6. In the event that there are additional assignments by defaulting participants after the 45-day tentative adjustment, the final pro rata price must be reduced and appropriate refund made to those participants who paid the tentative adjusted price. Since assignments may be made until flight departure time, the final pro rata price will not be known until passenger check-in is completed. The organizer is therefore required to submit a postflight accounting report to all participants within 10 days after completion of the charters, accompanying such report with the refund due.

7. In order to facilitate enforcement of the basic requirement that passengers be from the main list and standby list only, the carrier will have the responsibility to verify the identity of enplaning passengers. On international flights, the carrier will be required to examine the passport of each person and note each passport number on the manifest. On domestic flights, the carrier will be required to use reasonable efforts to verify the identity of enplaning passengers, and make appropriate notations on the manifest.

8. The bond and escrow provisions have been adapted from similar provisions applicable to tour operators; however, unlike other charter operators, the travel group charter organizer will not have the option of filing a bond only. It will be noted that a higher bond would be required if the charter organizer furnishes ground accommodations, and that the escrow arrangement governs payments both for air transportation and for ground accommodations, if any.

9. The Board's pro rata charter regulations generally require that all participants pay an equal share of the charter cost, but permit an exception for reduced fares for children. Because the subject charters will be held out to the general public, this exception does not appear desirable. Since the price to an individual participant would necesarily vary with the number of children accompanying other participants, reduced children's fares would produce an inequitable result and would add a further element of complexity and uncertainty in estimating the minimum pro rata price to be paid if all seats are sold.

Charter organizer as indirect air carrier. The advance notice invited comments particularly with respect to the limitations and safeguards which should be imposed on the intermediaries, or charter organizers, and the extent, if any, to which they should be allowed to serve as indirect air carriers. The comments differed on the advisability of making the charter organizers indirect air carriers. The National Air Carrier Association (NACA) and the American Society of Travel Agents (ASTA) oppose having the organizers authorized as indirect air carriers. On the other hand, the trunkline carriers maintain that under the guidelines outlined in the advance notice, the intermediaries or charter organizers would unquestionably be carriers and should be required to secure certificates of public convenience and necessity after due notice and hearing. Also, according to the trunklines, the Board should impose on such intermediaries bonding requirements and tariff filing requirements.

Consistent with the essential concept of the rule which we are proposing, it is clear that charter organizers are to act solely as agents for the travel group members with respect to air transportation. The organizer is to be neither a principal in the provision of air transportation nor an agent of the direct air carrier. Thus the travel group charter organizer will be engaged in the business of forming groups of persons, from among the general public, who will become parties to a charter contract with a direct air carrier. For his services to the group, in negotiating the charter contract, making the escrow arrangement and, in general, performing the functions prescribed in the proposed regulations, the organizer is to be paid a service charge as his compensation from the charter participants.

Although the charter organizer's role in air transportation is different from that of established classes of indirect air carriers, such as passenger consolidators and freight forwarders, the Board has tentatively concluded that, considering the scope of the charter organizers' activities and their impact on the public, and in light of the broad purposes of the Act, the charter organizers are subject to our jurisdiction as indirect air carriers. Cf. Consolidated Flower Shipments, Inc. v. C.A.B., 213 F. 2d 814 (9th Cir. 1954).

Form of charter contract and contract between charter organizer and charter participants. The proposed rule contemplates (§§ 372a.22(a) and 372a.29) the use of standard forms of the charter contract and the contract between the charter organizer and the participants. It is our tentative view that the use of standard forms of these contracts will greatly facilitate the enforcement of this class of charter, by obviating the need to determine individually, with respect to each separate charter, whether there has been full compliance with applicable regulations. However, no proposed standard contract forms are being circulated herewith. Instead we invite interested persons to include in their comments on the proposed rule a draft of their suggested form for a standard charter contract and for a standard contract between the charter organizer and the charter participants. On the basis of these submissions and other data available to the Board, the Board intends to adopt the appropriate standard forms for these contracts which will be attached to the final rule as appendices. As set forth in the proposed rule, the prescribed form of the charter contract would allow for insertion of specific terms and conditions, including the number of seats, the type of aircraft, the departure and return dates and points, and the minimum and maximum pro rata charter price (§ 372a.22(a)). Similarly, the prescribed form of contract between the charter organizer and the charter participants would include provisions for

the items which § 372a.29 requires be covered in such contracts.

Effective period of regulation. In view of the experimental character of the proposals, the regulation provides that it will expire 3 years from the effective date. Prior to the expiration of that period, the Board would consider the propriety of instituting a rule making proceeding to extend indefinitely the effectiveness of the part.

Matters relating to final rule. 1. If the Board finally adopts the subject proposal, the issued rule would include a "truth in chartering" provision. This would be reflected in a form, prescribed as an appendix to the rule, which travel group charter organizers would be required to complete and deliver to members of the charter group (all persons whose names appear on the main list and the standby list). The purpose of this provision would be to inform actual and prospective charter participants as to their contractual rights and obligations, and to summarize pertinent provisions of the Board's travel group charter rules.

2. The proposed rule contemplates a minimum 6-month lead time between the formation of the travel group and scheduled flight departure, and the organizer is required to file by that time certain documents relating to the travel group charter, such as a fully executed charter contract with the direct air carrier, a main list of charter participants, a standby list, etc. Considering the current stage of this rule making proceeding, it is apparent that even if the proposal is finally adopted, a 6-month lead time would, as a practical matter, render the rule inapplicable to the 1972 charter season. Therefore, if the Board does finally adopt the subject proposal, we would consider reducing the rule's 6-month lead time to 4 months, for the 1972 charter season only, so that it could have some practical, as well as legal, effectiveness in its first year.

It is proposed to amend Parts 207, 208, 212 and 214 of the Board's Economic Regulations (14 CFR Parts 207, 208, 212 and 214) and to adopt a new Part 372a of the Special Regulations as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. Amend § 207.11 (b) and (c) by adding new subparagraphs (6) and (4), respectively, as follows:

§ 207.11 Charter flight limitations.

Charter flights (trips) in air transportation shall be limited to the following:

* * * * *

(b) * * *

(6) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter, or

(c) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(4) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter;

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except as may otherwise be provided in this chapter:

And provided further, That paragraph (c) of this section shall not be construed to apply to movements of property.

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

2. Amend § 208.3 by revising the definition of "Indirect air carrier" in paragraph (u) to read as follows:

§ 208.3 Definitions.

* * * * * *

(u) "Indirect air carrier" means any citizen of the United States who engages indirectly in air transportation including air freight forwarders, persons authorized by the Board to transport by air used household goods of personnel of the Department of Defense, tour operators, study group charterers, and travel group charter organizers.

* * * * *

3. Amend § 208.6 (b) and (c) by adding new subparagraphs (6) and (5), respectively, as follows:

§ 208.6 Charter flight limitations.

Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

* * * * *

(b) * * *

(6) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter; or

(c) * * *

(4) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter; or

(5) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter:

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except as may otherwise be provided in this chapter:

And provided, further, That paragraph (c) of this section shall not be construed to apply to movements of property.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

4. Amend § 212.8(a) and (b) by adding new subparagraphs (6) and (4), respectively, as follows:

§ 212.8 Charter flight limitations.

Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually way-billed basis—

(a) * * *

(6) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter.

(b) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 372 of this chapter;

(4) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter.

Provided, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except as may otherwise be provided in this chapter,

And provided further, That paragraph (b) of this section shall not be construed to apply to movements of property.

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

5. Amend § 214.7 (a) and (b) by adding new subparagraphs (4) and (4), respectively, as follows:

§ 214.7 Charter flight limitations.

Charter flights shall be limited to air transportation performed by a direct foreign air carrier on a time, mileage, or trip basis where—

(a) * * *

(4) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372 a of this chapter; or

(b) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(4) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter:

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *Provided further,* That with respect to paragraph (b) of this section each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 or more seats, except as may otherwise be provided in this chapter.

6. Adopt a new Part 372a as follows:

PART 372a—TRAVEL GROUP CHARTERS

Subpart A—General Provisions

Subpart A—General Provisions

§ 372a.1 Applicability.

This part establishes the terms and conditions governing the furnishing of travel group charters in air transportation by direct air carriers, including foreign air carriers, and by travel group charter organizers. This part also relieves such charter organizers from various provisions of title IV of the Federal Aviation Act of 1958, as amended, for the purpose of enabling them to provide travel group charters utilizing aircraft chartered from such direct air carriers. Nothing contained in this part shall be construed as repealing or amending any provisions of any of the Board's regulations, unless the context so requires.

§ 372a.2 Definitions.

As used in this part, unless the context otherwise requires—

"Charter" means a travel group charter.

"Charter contract" means a contract for air transportation made by and between a direct air carrier and charter participants acting through a charter organizer.

"Charter organizer" means a travel group charter organizer.

"Charter participant" means a member of a travel group who is a party to a charter contract, either as a main list participant or as an assignee of a main list participant.

"Direct air carrier" means (a) an air carrier holding a certificate of public convenience and necessity issued pursuant to section 401 of the Act, or (b) a foreign air carrier which holds a permit issued under section 402 of the Act.

"Main list participant" means a member of a travel group who has duly authorized a charter organizer to enter his name on the main list filed with the Board pursuant to this part.

"Person" means any individual, firm, association, partnership, or corporation.

"Pro rata charter price" means each participant's share of the total charter price payable to the direct air carrier, plus service charge.

"Service charge" means the compensation which the charter organizer may receive from each charter participant for organizing the group and acting as its agent in arranging for the charter transportation and services related thereto.

"Standby list member" means a member of a travel group who has duly authorized a charter organizer to enter his name on the standby list filed with the Board pursuant to this part.

"Travel group" means the aggregate of main list participants and standby list members.

"Travel group charter" means a round trip charter arranged and sponsored by a charter organizer for a travel group and meeting the requirements set forth in § 372a.10.

"Travel group charter organizer" means any citizen of the United States (other than a direct air carrier), as defined in section 101(13) of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1301(13)), who is an indirect carrier authorized hereunder to engage in the formation of travel groups in accordance with the provisions of this part. With respect to the charter contract, such charter organizer acts solely as agent for, and holds all moneys received from any source in connection therewith as agent for, the members of the travel group.

§ 372a.3 Waivers.

A waiver of any of the provisions of this part may be granted by the Board upon its own initiative, or upon the joint submission by a direct air carrier and a charter organizer of a written request therefor not less than 30 days prior to the flight to which it relates, provided that such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

§ 372a.4 Enforcement.

In case of any violation of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding pursuant to sections 1002 and 1007 of the Act before the Board or a U.S. district court, as the case may be, to compel compliance therewith, to civil penalties pursuant to the provisions of section 901(a) of the Act, or in the case of willful violation, to criminal penalties pursuant to the provisions of section 902(a) of the Act; or other lawful sanctions.

§ 372a.5 Termination of part.

The exemption provided by this part shall terminate 3 years from the effective date hereof and shall not apply to any charter flight scheduled to depart subsequent to such date of termination.

Subpart B—General Conditions and Limitations

§ 372a.10 Travel group charter general requirements.

A travel group charter authorized under this part shall meet the following requirements:

(a) The charter must be arranged for and sponsored by a charter organizer whose sole interest in the charter contract is as agent for the charter group and not as a principal or as agent for the direct air carrier.

(b) The charter contract must be for 50 or more seats.

(c) It must be on a round trip basis.

(d) The air transportation portion thereof must be performed by a direct air carrier which holds a certificate of public convenience and necessity under section 401 of the Act or a permit under section 402 of the Act.

(e) Passengers transported pursuant to the charter shall consist solely of charter participants, no less than 80 percent of whom shall be main list participants.

(f) The total cost to each participant shall be the sum of the pro rata cost of air transportation, the service charge of the charter organizer, and the charge for land accommodations, if any.

(g) The sole compensation to be received by the charter organizer with respect to air transportation shall be the service charge paid by the charter participants.

§ 372a.11 Solicitation in mass media prohibited.

Members of the charter group may not be brought together by means of a solicitation through mass media advertising. The proscribed solicitation includes air transportation services, or ground services in connection therewith, offered by a direct air carrier or charter organizer under circumstances in which the services are advertised in mass media, regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media. After a charter option which has been given by a direct air carrier to a charter organizer is filed with the Board (see § 372a.22, infra), copies of solicitation material shall be furnished such carrier at the

same time it is distributed to prospective charter participants.

§ 372a.12 Initial deposits.

Each main list participant, upon executing the contract between participants and organizer, shall pay at least an initial deposit of 25 percent of the minimum pro rata charter price specified in the charter contract. This initial 25-percent deposit shall be nonrefundable to a charter participant who defaults in making any payment on the pro rata charter price subsequent to the filing of the charter contract, except as provided in § 372a.19.

§ 372a.13 Conditions precedent to contracts.

(a) The charter contract and the contract between the charter participants and the charter organizer shall become binding on the participants only upon the occurrence of all the following conditions precedent:

(1) The number of main list participants is equal to the number of seats specified in the charter contract;

(2) Each main list participant has paid at least an initial deposit of 25 percent of the minimum pro rata charter price specified in the charter contract; and

(3) The charter contract has been timely filed with the Board.

(b) At any time prior to the 7 months preceding the scheduled flight departure date, a participant may submit to the organizer written notice of his cancellation and he shall thereupon be entitled to receive forthwith a refund of all moneys credited to his account, without deduction or penalty of any kind.

§ 372a.14 Assignments.

At any time during the 7 months preceding the scheduled flight departure date, a charter participant may assign his interest in the charter, but only in accordance with the following:

(a) The assignee must be a standby list member.

(b) No more than 20 percent of the main list participants may assign their interests.

(c) An assignment may be effected only by the charter organizer.

(d) The price for an assigned interest shall not exceed the total amount of pro rata charter price installments theretofore paid by the assignor, which amount shall then be credited to the account of the assignee.

(e) The charter organizer may charge the assignor a transfer fee not in excess of 5 percent of the minimum pro rata charter price.

(f) The charter organizer shall use his best efforts to effect an assignment, either at the request of a charter participant or upon the default of a charter participant in making any payment on the pro rata charter price.

§ 372a.15 Pro rata charter price; minimum, maximum, adjusted.

(a) The amount of the minimum pro rata charter price shall be equal to the total charter price divided by the total number of seats specified in the contract, plus the service charge.

(b) The amount of the maximum pro rata charter price shall be equal to 20 percent more than the minimum.

(c) The adjusted pro rata charter price shall reflect the pro rata increase resulting from defaults in payments by participants.

(d) The cost of charter flights shall be prorated equally among all charter participants and no charter participant shall be allowed free or reduced-rate transportation.

§ 372a.16 Full payment of charter price; refunds.

(a) No later than 60 days prior to the scheduled date of flight departure, there shall be due from each charter participant full payment of the minimum pro rata charter price. The contract between the participants and the organizer may also provide for the payment at the same time of a pro rata reserve deposit which shall be applied, as needed, toward payment of any adjustment in pro rata charter price resulting from defaults in payments by participants: *Provided, however,* That the total sum of the minimum pro rata charter price plus such reserve deposit shall not be greater than the maximum pro rata charter price, less service charge; *And provided further,* That any portion of such reserve deposit as is not needed shall be forthwith refunded pro rata.

(b) Upon default by any participant in making such payment the charter organizer shall use his best efforts to effect assignment of his interest, in accordance with the provisions of § 372a.14, and the assignee shall thereupon become liable in place and instead of the assignor for the amount payable under paragraph (a) of this section.

(c) If the interest of any defaulting participant has not been assigned by the 45th day prior to the scheduled date of departure, then the initial 25-percent deposit of each such defaulting participant shall be applied toward payment of the charter price, and the pro rata charter price for each remaining participant shall be increased by an amount equal to his pro rata share in the unpaid balance of the charter price.

(d) If the tentative adjusted pro rata charter price, as computed on the 45th day prior to the scheduled date of flight departure exceeds the specified maximum, then the charter shall be canceled and all moneys paid by the charter participants shall be refunded to them forthwith, without deduction or penalty of any kind: *Provided, however,* That the initial 25-percent deposit of each defaulting participant may be paid over as liquidated damages to the direct air carrier and the charter organizer pursuant to the terms of the charter contract and the contract between the organizer and participants.

(e) If the tentative adjusted pro rata charter price, as computed on the 45th day prior to the scheduled date of flight departure, does not exceed the specified maximum, then each participant shall forthwith pay the balance, if any, due on such adjusted pro rata charter price and all moneys theretofore paid by charter participants shall be nonrefundable, except as provided in paragraph (f) of this section: *Provided, however,* That if the charter contract is subsequently canceled for any of the reasons set forth in § 372a.19, then all moneys paid by the charter participants shall be refunded to them forthwith, without deduction or penalty of any kind.

(f) The final adjusted pro rata price shall represent the tentative adjusted pro rata price as reduced by each participant's pro rata share of the total of any defaulted payments made subsequent to the date on which the tentative adjusted price was computed, and the amount by which the tentative adjusted price exceeds the final adjusted price shall be refunded by the organizer at the time he submits the postflight accounting report required by § 372a.30.

§ 372a.17 Payment to direct air carrier.

The direct air carrier shall be paid in full for the cost of the roundtrip charter transportation prior to scheduled date of flight departure.

§ 372a.18 No intermingling of passengers.

There shall be no intermingling of passengers and each planeload group, or less-than-planeload group, shall move as a unit in both directions, except under emergency circumstances provided for in the basic charter regulations applicable to the direct air carrier under Parts 207, 208, 212, and 214 of this title, as the case may be.

§ 372a.19 Cancellation of charter.

A charter authorized pursuant to this part shall be canceled and all payments by the charter participants shall be refunded in full if any of the following events occur:

(a) The charter contract is not timely filed with the Board, in accordance with § 372a.22;

(b) The charter organizer's authority is suspended;

(c) A charter organizer's surety bond is canceled without substitution of a replacement satisfactory to the Board (see § 372a.25);

(d) The direct air carrier cancels the charter pursuant to the terms of the charter contract;

(e) Where the charter is for less than the entire capacity of an aircraft and the remaining capacity of the aircraft is not chartered to one or more other eligible persons in accordance with the applicable provisions of Parts 207, 208, 212, or 214, as the case may be.

Subpart C—Requirements Applicable To Charter Organizer

§ 372a.20 Exemption.

Subject to the provisions of this part and the conditions imposed herein, charter organizers are hereby relieved from the following provisions of Title IV of the Federal Aviation Act of 1958, as amended, to the extent necessary to permit them

to organize and arrange travel group charters:

Section 401.
Section 403.
Section 404(a), except the requirement to provide adequate service in connection with travel group charters operated hereunder.
Section 405(b).
Sections 407(b) and (c).
Sections 408(a) and 409, except control or interlocking relationships with direct air carriers.
Section 412.

§ 372a.21 Suspension of exemption authority.

The Board reserves the power to suspend the exemption authority of any charter organizer, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

§ 372a.22 Operating authorization of charter organizer.

A charter organizer is authorized hereunder to organize and operate a travel group charter only in accordance with the provisions of this part, and subject to the following conditions:

(a) No charter organizer shall sell or offer to sell, solicit, or advertise a charter trip, until at least 15 days after he and the direct air carrier have jointly filed with the Board (Supplementary Services Division, Bureau of Operating Rights) in duplicate: (1) An option from a direct air carrier under which the carrier obligates itself for a specified period, which shall expire no later than 6 months prior to scheduled date of departure, to enter into a charter contract with the charter organizer as agent for the charter participants; (2) a copy of the proposed charter contract, in the form prescribed in appendix A, setting forth specific terms and conditions upon which the carrier will perform the charter, including the number of seats, the type of aircraft, the departure and return dates and points, and the minimum and maximum pro rata charter price; (3) a copy of the proposed contract between the organizer and the participants in the form prescribed in appendix B; (4) a duly subscribed and sealed surety bond, and a copy of a fully executed depository agreement, as provided in § 372a.25; and (5) samples of the promotional material which the charter organizer plans to use in his solicitation for charter participants: *Provided, however,* That if during the 15-day period following filing hereunder, the charter organizer has been notified that the Board has rejected such filing for noncompliance with this part, then he shall not sell or offer to sell, solicit or advertise such charter trip until he has subsequently been notified by the Board that the filing has been accepted.

(b) No earlier than 7 months, and no later than 6 months, prior to the scheduled date of departure, the charter organizer and the direct air carrier must jointly file with the Board (Supplementary Services Division, Bureau of Operating Rights), in duplicate:

(1) A fully executed charter contract;

(2) A main list setting forth the names, addresses, and telephone numbers of all the charter participants;

(3) A standby list, no larger than three times the number of main list participants, setting forth the names, addresses, and telephone numbers of participants who have authorized the organizer to include them in such list, as prospective assignees of main list participants; or, a statement that there are no standby list members;

(4) A statement of the charter organizer affirming that each main list participant has entered into a contract with the organizer as provided in this part, and has paid his initial 25-percent deposit; and

(5) A statement of the depository bank affirming that it has received a deposit of no less than 25 percent of the total charter price payable to the direct air carrier.

(c) The service charge shall be broken out separately and shall be equal for all participants.

§ 372a.23 Discrimination.

No charter organizer shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

§ 372a.24 Methods of competition.

No charter organizer shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

§ 372a.25 Surety bond and depository agreement.

(a) Before selling or offering to sell, soliciting, or advertising any charter flight, a charter organizer shall furnish and file with the Board:

(1) A surety bond in the following minimum amounts: (i) If the charter is for air transportation only, a bond in the amount of $5,000 per round trip charter flight, up to a maximum of $50,000 for a series of 10 or more round trip flights; or (ii) if the charter is for any land accommodations in addition to air transportation, a bond in the amount of $10,000 per round trip flight, up to a maximum amount of $100,000 for a series of 10 or more round trip flights. The bond shall be for the protection of the charter participants and shall commence not later than the date on which it is filed with the Board and shall continue in effect until completion of the charter or series of charters: *Provided, however,* That the liability of the surety to any charter participant shall not exceed the amounts paid by him to the charter organizer with respect to the charter; and

(2) A copy of an agreement made between the direct air carrier, the charter organizer and a designated bank, by the terms of which all sums paid by participants to the charter organizer shall be deposited with and maintained by the bank in a separate escrow account, subject to the following conditions:

(i) The participants shall pay by check or money order payable to the bank; and any cash received by the charter organizer from a participant shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the cash;

(ii) The bank shall pay the direct air carrier the round trip charter price for the transportation upon certification of the departure and return dates by the direct air carrier;

(iii) Refund to participants from sums in the escrow account shall be paid by the bank directly to such participants, upon receipt of written notification from the charter organizer or the direct air carrier specifying the facts warranting such refund under this part;

(iv) As used in this section, the term "bank" includes a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(v) The bank shall maintain a separate accounting for each charter;

(vi) After the charter price has been paid in full to the direct air carrier, the bank shall pay funds from the account directly to the hotels, sightseeing enterprises, or other persons or companies furnishing surface accommodations or services, if any, in connection with the charter or series of charters, upon presentation to the bank of vendors' bills and upon certification by the charter organizer of the amounts payable for such surface accommodations or services and the persons or companies to whom payment is to be made: *Provided, however,* That the total amounts paid by the bank pursuant to subdivisions (ii) and (vi) of this subparagraph shall not exceed 80 percent of the total deposits received by the bank less any refunds made to charter participants pursuant to subdivision (iii) of this subparagraph;

(vii) Except as provided in subdivisions (ii), (iii), and (vi) of this subparagraph, the bank shall not pay out any funds from the account prior to 2 banking days after completion of each charter, when the balance in the account shall be paid to the charter organizer, upon certification of the completion date by the direct air carrier.

(b) The bond required under paragraph (a) of this section shall insure the financial responsibility of the charter organizer only to the extent of turning over to the depository account all moneys collected from participants in accordance with the contract between the charter organizer and the participants, and shall be in the form set forth as Appendix C. Such bond shall be issued by a bonding or surety company whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6, and which is listed in Best's Insurance Reports (Fire and Casualty)

with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the charter originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The bond shall be specifically identified by the issuing surety with a company bond numbering system so that the Board may identify the bond with the specific charter or charters to which it relates. It shall be effective on or before the date it is filed with the Board. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier and the charter organizer by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time set forth in such notification, the subject charter or charters shall be canceled.

(c) The bond required by this section shall provide that unless the charter participant files a claim with the charter organizer or, if he is unavailable, with the surety, within sixty (60) days after completion of the charter, the surety shall be released from all liability under the bond to such participant. The contract between the charter organizer and the charter participant shall contain notice of this provision.

§ 372a.26 Prohibition on operations unless tariffs are observed.

No charter organizer shall charter aircraft to provide air transportation to charter participants, and no direct air carrier shall operate such aircraft, except in accordance with the rates, fares, and charges and all applicable rules, regulations, and other provisions for such transportation as set forth in the currently effective tariff or tariffs of the direct air carrier transporting charter participants; and no such organizer shall demand, collect, accept, or receive, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates, fares, or charges so specified in the tariffs of such direct air carrier, and shall not demand, accept, or receive, either directly or indirectly, any privilege, service, or facility except those specified in the currently effective tariffs of such direct air carrier.

§ 372a.27 Charter costs.

(a) The charter organizer shall not make any charges to the charter participants other than his service charge for consummating the charter (or liquidated damages, as permitted hereunder, if the charter is canceled upon default of participants), and such transfer fee as may be due him from an individual participant for effecting an assignment.

(b) No part of the service charge shall be retained by the charter organizer unless the charter is completed: *Provided, however,* That the charter organizer may retain as liquidated damages a portion of the initial 25-percent deposits forfeited by defaulting participants in the event of cancellation of a charter, pursuant to the provisions of the charter contract and the contract between the charter participants and the charter organizer and in accordance with § 372a.16 of this part. Neither the charter organizer nor any member of the charter group may receive any gratuities or compensation, direct or indirect, from the carrier, or any organization which provides any service to the charter group with respect to air transportation. Nothing in this section shall prevent any member of the charter group from accepting such advertising and good will items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

§ 372a.28 Statements of charges.

Any announcement or statement to prospective charter participants giving price per seat shall state that the price is dependent upon the number of seats sold and shall also set forth the total cost of the charter including the minimum and maximum pro rata charter price, the total service charge and the transfer fee. It shall also state that the minimum pro rata price is subject to an increase of no more than 20 percent as a result of defaults by participants, and that the charter will be canceled if the price per seat increases by more than 20 percent over the minimum pro rata charter price. All announcements shall also identify the carrier, and the type of aircraft to be used for the charter. Solicitation materials shall separately state the cost of ground arrangements, if any, the cost of air transportation, the service charge, and the total cost of the entire trip. Solicitation material shall also state that for a person to be eligible to be a passenger on a charter flight he must be included in the main list or the standby list to be filed no later than 6 months before flight departure. All billings to charter participants shall separately state the pro rata cost of air transportation, the service charge and the cost of land accommodations, if any.

§ 372a.29 Contract between charter organizer and charter participants.

The contract between the charter organizer and participants shall be in the form prescribed in Appendix B, and shall set forth the specific terms and conditions upon which the charter will be performed, including:

(a) The terms required by § 372a.22 to be specifically set forth in the charter contract.

(b) The terms required by § 372a.28 to be specifically set forth in statements of charges.

(c) The schedule of payments and the date by which the minimum price must be fully paid, which date shall not be later than 60 days before the scheduled departure date;

(d) The date on which the tentative adjusted pro rata price shall be computed, which date shall not be later than 45 days before the scheduled departure date;

(e) The name and address of the depository bank and a statement that all installment payments are to be by check or money order made payable to the designated depository bank;

(f) The conditions upon which the contract between the charter organizer and the charter participants may be canceled, and the rights and obligations of all parties in the event of such cancellation;

(g) The conditions upon which the charter contract may be canceled, and the rights and obligations of all parties in the event of such cancellation;

(h) The conditions governing assignment of a participant's interest;

(i) The dollar amounts of the direct air carrier's liability limitations for passengers' baggage, as set forth in the carrier's tariff.

(j) The name and address of the surety and a statement that unless the charter participant files a claim with the charter organizer or, if he is unavailable, with the surety, within sixty (60) days after completion of the charter, the surety shall be released from all liability under the bond to such charter participant.

§ 372a.30 Post-flight accounting report.

Not later than 10 days following completion of the charter, the charter organizer shall submit to each participant a statement in the form prescribed in appendix D, setting forth the final adjusted pro rata price, which shall take into account all payments made by charter participants subsequent to the date on which the tentative adjusted price was computed, and such statement shall be accompanied by any refunds then due to the participants.

§ 372a.31 Record retention.[1]

(a) Every charter organizer conducting a travel group charter pursuant to this part shall retain for 2 years after completion of the charter or series of charters true copies of the following documents at its principal or general office in the United States:

(1) All documents which evidence or reflect deposits made by, and refunds made to, each charter participant;

(2) All statements, invoices, bills and receipts from suppliers or furnishers of goods and services in connection with the travel group charter or series of charters.

(b) Every charter organizer shall make the documents listed in this section available upon request by an authorized representative of the Board and shall permit such representative to make such notes

[1] Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C. section 1001.

and copies thereof as he deems appropriate.

Subpart D—Requirements Applicable to Direct Air Carrier

§ 372a.40 Charter not to be performed unless compliance with part.

A direct air carrier shall not perform air transportation in connection with a travel group charter unless it has made a reasonable effort to verify that all provisions of this part have been complied with, and that the charter organizer's authority under this part has not been suspended by the Board.

§ 372a.41 Direct air carrier to identify enplanements.

The direct air carrier shall make reasonable efforts to verify the identity of all enplaning charter participants, and the documentary source of such verification shall be noted on the passenger manifest: *Provided, however,* That in the case of international flights the identity of each enplaning charter participant shall be verified by means of his passport and the passport number shall be entered on the passenger manifest.

§ 372a.42 No commissions to be paid.

No commissions, fees or other compensation shall be paid by the direct air carrier to the charter organizer or to any other person in connection with the charter trip.

Subpart E—Reporting Requirements

§ 372a.50 Reporting requirements.

(a) Each direct air carrier shall prepare and file with the Board's Bureau of Enforcement within 7 days after flight departure, a manifest containing the names, addresses, telephone numbers, on which shall be noted the carriers verification of each enplaning passenger's identity, as provided in § 372a.41.

(b) The direct air carrier shall promptly notify the Board regarding any travel group charter flight covered by a filing under § 372a.22 which is subsequently canceled.

(c) The following monthly reports shall be filed with the Board's Bureau of Operating Rights not later than the 10th day of the month succeeding the reporting period: (1) By the depository bank showing the total amount of deposits received and disbursed during the month; and (2) by the charter organizer showing, for the reporting period, the total amount of customer payments received by him or his agents, and the amount of refunds made by the bank to charter participants: *Provided,* That the depository bank may, in lieu of subparagraph (1) of this paragraph, elect to file a duplicate monthly statement of the same type it provides to depositors and, when so elected, the reporting period for the charter organizer hereunder shall correspond to the reporting period of the bank. The term "bank" shall have the meaning set forth in § 372a.25. The reports shall be certified by the officer in charge of the bank's or the charter organizer's accounts, as the case may be, and the certification shall be in the following form:

CERTIFICATION [2]

I, the undersigned _____
(Title of officer in charge of accounts)

of the _____
(Full name of reporting company)

do certify that this report and all supporting documents which are submitted herewith, filed for the above indicated period, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

_____
(Signature)

_____
(Bank or charter organizer's post office address)

Date _____, 19____.

APPENDIX C

TRAVEL GROUP CHARTER ORGANIZER'S SURETY BOND UNDER PART 372a OF THE SPECIAL REGULATIONS OF THE CIVIL AERONAUTICS BOARD (14 CFR PART 372a)

Know all men by these presents, That we _____ of
(Name of Travel Group charter organizer)

_____, _____ as Principal
(City) (State)

(hereinafter called Principal), and _____
_____a corporation created and
(Name of Surety)

existing under the laws of the State of _____ as Surety (hereinafter called
(State)

Surety), are held and firmly bound unto the United States of America in the sum of _____ for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.
(see § 372a.25 of Part 372a)

Whereas, the Principal intends to become a travel group charter organizer pursuant to the provisions of Part 372a of the Board's Special Regulations and other rules and regulations of the Board relating to insurance or other security for the protection of travel group charter participants, and has elected to file with the Civil Aeronautics Board such a bond as will insure financial responsibility with respect to all monies received from charter participants for services in connection with a travel group charter to be operated subject to Part 372a of the Board's Special Regulations in accordance with contracts, agreements, or arrangements therefor, and

Whereas, this bond is written to assure compliance by the Principal as an authorized travel group charter organizer with Part 372a of the Board's Special Regulations, and other rules and regulations of the Board relating to insurance or other security for the protection of charter participants, and shall inure to the benefit of any and all charter participants to whom the Principal may be held legally liable for any of the damages herein described.

Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to charter participants any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by the Principal while this bond is in effect with respect to the receipt of monies from charter participants and the proper disbursement thereof pursuant to and in accordance with the provisions of Part 372a of the Board's Special Regulations, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety with respect to any charter participant shall not exceed the amounts paid by such participant or on his behalf to the charter organizer with respect to the charter.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or shall amount in the aggregate to the penalty of the bond, but in no event shall the Surety's obligation hereunder exceed the amount of said penalty. The Surety agrees to furnish written notice to the Civil Aeronautics Board forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

The bond shall cover the following round trip flights:

Surety company's bond No.	Dates of flight (departure and return)	Places of flight (departure and return)

This bond is effective upon its filing with the Civil Aeronautics Board and shall continue in force until terminated as hereinafter provided. The principal or the surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Board. The surety shall not be liable hereunder for the payment of any of the damages hereinbefore described which arises as the result of any contracts, agreements, undertakings, or arrangements made by the principal in connection with transportation and other services after the termination of this bond as herein provided, but such termination shall not affect the liability of the surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements made by the principal in connection with transportation and other services prior to the date such termination becomes effective. Liability of the surety under this bond shall in all events be limited only to a charter participant or charter participants who shall within sixty (60) days after the termination of the particular charter described herein give written notice of claim to the charter organizer or, if he is unavailable, to the surety, and all liability on this bond shall automatically terminate sixty (60) days after the termination date of the particular travel group charter covered by this bond except for claims filed within the time provided herein.

IN WITNESS WHEREOF, the said principal and surety have executed this instrument on the _____ day of _____, 19—

[2] Title 18 U.S.C. sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

PRINCIPAL

Name _____

By _____
(Signature and title)

Witness _____

SURETY

Name _____ [SEAL]

By _____
(Signature and title)

Witness _____

Only corporations may qualify to act as surety and they must meet the requirements set forth in § 372a.25(b) of Part 372a.

APPENDIX D

POST-FLIGHT ACCOUNTING REPORT

Instructions:

The charter organizer shall furnish a report in this form to each charter participant not later than 10 days following completion of the charter.

1. Name of carrier: _____
2. Name and address of charter organizer: _____
3. Reconciliation of price computations:
   (a) Minimum pro rata charter price, computed on basis of _____ seats, at $_____ per seat; plus service charge of $_____. $_____
   (b) Maximum pro rata charter price. _____
   (c) Tentative adjusted pro rata charter price, as computed on _____. _____
   (d) (1) Total payments received from charter participants subsequent to date on which tentative price computed.
   (2) Equal pro rata share of said total payments, credited to each participant not in default. _____
   (e) Final adjusted pro rata charter price. _____
   (f) Amount by which tentative adjusted price exceeds final adjusted price. (This is the amount of refund due each participant who paid the tentative adjusted price, and which must accompany this report.) _____

VERIFICATION [3]

State of _____ }
County of _____ } SS:

I, _____, being duly sworn, hereby depose and say that this report has been prepared by me or under my direction, that I have carefully examined it and that to the best of my knowledge and belief it is a complete and accurate statement, and a copy hereof has been distributed to each charter participant.

_____
(Signature of charter organizer)

Sworn to before me this day, the _____ of _____, 197____.

_____
(Signature of person administering oath. Also, set forth here below the name, address, and authority of such person.)

[FR Doc.72-227 Filed 1-6-72;8:45 am]

[3] Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., section 1621.

Notices

DEPARTMENT OF THE INTERIOR

Geological Survey

ENVIRONMENTAL STATEMENTS

Issuance of Directives Regarding Preparation

Notice is hereby given of the publication of procedures of the Geological Survey to implement the policy and directives of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852, January 1, 1970); section 2(f) of Executive Order 11514 (March 5, 1970); the guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971); Office of Management and Budget Bulletin No. 72-6 (September 14, 1971), and Departmental Manual (516 DM 2, September 27, 1971).

Set forth below is the Geological Survey Manual Part 516, Chapter 2, entitled "Environmental Impact Statements." The numbering system used is that of the Survey Manual.

R. E. McKELVEY,
Director.

ENVIRONMENTAL QUALITY

Part 516—Survey Program Policies

Chapter 2—Environmental Impact Statements

.1 *Purpose.* These procedures are to implement the policy and directives of the National Environmental Policy Act of 1969, and to provide guidance in the preparation of environmental statements for major Federal actions, conducted by the Geological Survey and which significantly affect the quality of the human environment. (516 DM 2)

.2 *Policy.* All major actions proposed or recommended by the Geological Survey will be assessed for their environmental impact. Environmental impact statements will be prepared on all legislation or major actions proposed by the Survey, which are determined to have significant impact on the quality of the environment. When suitable, Geological Survey Circular No. 645 can be used as a basic guide in making such determinations. Decision that certain major actions will not require an environmental impact statement will be documented, and a memorandum for the record will be filed.

.3 *Scope.* The provisions of this chapter apply to continuing major actions that have a significant effect on the environment, even though they arise from projects or programs that began before the effective date of the National Environmental Policy Act of 1969.

.4 *Major actions whose environmental impacts will be considered.* A. *Federal lessee mining plans and applications to drill exploratory oil and gas, and geothermal wells.* Applications to drill exploratory oil and gas or geothermal steam wells and original mining plans or major changes in mining plans affecting mineral leases on Federal lands, submitted for approval, will be analyzed for their impact on the environment. If it is concluded that the proposed action will not have a significant impact on the environment, this determination will be stated in a memorandum for the record. Where it is determined that any of these proposed actions will have a significant impact on the quality of environment, an environmental impact statement will be prepared prior to approval of the application to drill or mine.

B. *Applications for financial assistance under the Minerals Discovery Loan Program.* For applications for financial assistance under the Minerals Discovery Loan Program, the Field Examination Report prepared by the Survey examiner will include a statement covering environmental considerations of the project involved in the Office of Minerals Exploration contract. If it is concluded that the project will not have a significant impact on the environment, this determination will be stated in the examination report. If it is concluded by the Survey examiner that the project will have a significant impact on the environment, an environmental impact statement will be prepared.

C. *Program areas requiring environmental impact statements.* Major actions which involve controversial environmental issues or which involve large-scale operations should be carefully assessed and an environmental impact statement filed on such actions to assure that all environmental considerations are weighed before a specific activity is undertaken. Examples of these cases are major applications for radioactive tracer investigations, major extensive earthquake control experiments, extensive exploratory drilling programs, and installation of additional platforms for OCS oil and gas operations.

D. *Program areas generally not requiring environmental impact statements.* All undertakings of the Geological Survey will be assessed for their impact on the environment early in the decision-making process in accord with section .2, "Policy." Except as noted in paragraphs A., B., and C. above, the following activities are examples of the types which generally will not require filing an environmental impact statement: (1) Mapping and surveying activities in connection with the National Topographic Mapping Program.

(2) Surveying and mapping activities in connection with geologic and mineral resources investigations.

(3) Data-gathering activities in connection with water resources investigations.

.5 *Responsibilities.* A. The Assistant Director—Research, in consultation with the appropriate Division Chief(s), shall designate the officials responsible for reviewing Survey actions which have been identified as having a significant impact on the environment and for preparing the environmental impact statement. He may assign primary responsibility to individuals or to organizational units, in the field or at headquarters level, for coordinating the viewpoints of all interested Survey organizational units, as well as other governmental or private groups, and for preparing the statement. He may also assign this responsibility to a Task Force under the chairmanship of the organizational unit having primary interest.

B. Division Chiefs or heads of other Survey organizational units shall be responsible for identifying actions that have a significant impact on the environment among the activities initiated or implemented in their Divisions or organizational units.

C. Officials designated as responsible for preparation of impact statements shall be responsible for: (1) Consulting with appropriate bureaus or offices, other Federal agencies, and other appropriate sources of special environmental expertise not available within the Survey;

(2) Preparing the proposed draft statements and ensuring that they fully consider and reflect the information obtained;

(3) Transmitting copies of draft environmental statements, as endorsed by the Assistant Secretary—Program Policy, to Federal agencies with jurisdiction by law or special environmental expertise, to State and local agencies authorized to develop or enforce environmental standards, and to private organizations with an expressed or known interest in the proposal;

(4) Giving public notice in the manner provided (516 DM 2) of the availability of draft environmental statements and inviting comments;

(5) Consulting with all bureaus and offices and other Federal agencies submitting comments, where appropriate;

(6) Preparing proposed final environmental statements and ensuring that all relevant comments are considered therein;

(7) Transmitting copies of final environmental statements, as endorsed by the Assistant Secretary—Program Policy, to all Interior Department bureaus and offices; other Federal, State, and local agencies; and private organizations from whom comments were solicited.

.6 *Procedures.* All environmental impact statements shall be prepared and processed in accordance with guidelines contained in 516 DM 2.

[FR Doc.72-241 Filed 1-6-72;8:48 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Rules for Allocation of Quotas for Calendar Year 1972 Among Producers Located in the Virgin Islands, Guam, and American Samoa

CROSS REFERENCE: For a document relating to watch and watch movements quotas in the areas designated above, see F.R. Doc. 72-282, under the Secretary, Department of Commerce, *infra*.

DEPARTMENT OF COMMERCE

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Rules for Allocation of Quotas for Calendar Year 1972 Among Producers Located in the Virgin Islands, Guam, and American Samoa

On December 1, 1971, the Department of Commerce and the Interior published a joint notice of proposed rule making under Public Law 89-805, setting out the proposed formula for allocation of 1972 watch quotas among producers located in the Virgin Islands, Guam, and American Samoa (36 F.R. 22857). Interested parties were invited to participate in the proposed rule making by submitting their written views within 15 days from

the filing date of the notice of proposed rule making with the FEDERAL REGISTER.

The Departments have reviewed carefully the comments received and have concluded that the proposed rules should not be changed or modified in substance. Accordingly, the following rules shall be effective as of the date of filing with the FEDERAL REGISTER.

SECTION 1. (Virgin Islands and Guam) Upon effective date of these rules, or as soon thereafter as practicable, each producer located in the Virgin Islands and Guam which received a duty-free watch quota allocation for calendar year 1971, will receive an initial quota allocation for calendar year 1972 equal to 50 percent of the number of watch units assembled by such firm in the particular territory and entered duty-free into the customs territory of the United States during the first 10 months of calendar year 1971, or 5,000 units, whichever is greater.

SEC. 2. (Virgin Islands and Guam) Each firm to which an initial quota has been allocated pursuant to section 1 hereof must, on or before April 1, 1972, have assembled and entered duty-free into the customs territory of the United States *at least 30 percent of its initial* quota allocation. Any firm failing to enter duty-free into the customs territory of the United States on or before April 1, 1972, a number of watch units assembled by it in a particular territory equal to, or greater than, 30 percent of the number of units initially allocated to such firm for duty-free entry from that territory will, upon receipt of a show cause order from the Departments, be given an opportunity, within 30 days from such receipt, to show cause why the duty-free quota which it would otherwise be entitled to receive should not be canceled or reduced by the Departments. Such a show cause order may also be issued whenever there is reason to believe that shipments through December 31, 1972, by any firm under the quota allocated to it for calendar year 1972 will be less than 90 percent of the number of units allocated to it. Upon failure of any such firm to show good cause, deemed satisfactory by the Departments, why the remaining, unused portion of the quota to which it would otherwise be entitled should not be canceled or reduced, said remaining, unused portion of its quota shall be either canceled or reduced, whichever is appropriate under the show cause order. In the event of a quota cancellation or reduction under this section, the Departments will promptly reallocate the quota involved, in a manner best suited to contribute to the economy of the territories, among the remaining firms: *Provided, however,* That if in the judgment of the Departments it is appropriate, competitive bids from new firms may, in lieu of such reallocation, be invited for any part or all of any unused portions of quotas remaining unallocated as a result of cancellation or reduction hereunder. Every firm to which a quota is granted is required to file a report on April 15, July 15, and on October 15, of each year covering the periods January 1 to March 31, April 1 to June 30, and July 1 to September 30 respectively via registered mail on Form OIPF–844, copies of which will be forwarded to each firm at its territorial address of record at least 15 days prior to the required reporting date. Copies of this form may also be obtained from the Special Import Programs Division, Office of Import Programs, U.S. Department of Commerce, Washington, D.C. 20230. Form OIPF–844 will provide the Departments with information regarding the firm's watch movement assembly operation in the insular possessions. Such information may include the status of beginning and ending finished watch movement and component parts inventories, scheduled delivery dates and number of watch movement parts and components ordered, number of watch movements assembled, number of watch movements entered into the customs territory of the United States, and a list of confirmed orders for shipment of finished watch movements into the customs territory of the United States prior to December 31, 1972. Each firm to which a quota is granted will also report on Form OIPF–844 any change in ownership and control of the firm which has occurred subsequent to the filing of an application for a watch quota on Form OIPF–764 (see section 8, below).

SEC. 3. (Virgin Islands only) The annual quotas for calendar year 1972 for the Virgin Islands will be allocated as soon as practicable after April 1, 1972, on the basis of (1) the number of units assembled by each firm in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1971, (2) the total dollar amount of wages subject to FICA taxes paid by such firm in the territory during calendar year 1971 to persons whose pay was attributable to its Headnote 3(a) watch assembly operation, and (3) the total combined net dollar amount of income taxes, gross receipts taxes, trade and excise taxes and customs duties (on imports into the territory of watch parts and watch components, attributable to its Headnote 3(a) watch assembly operation) applicable to its calendar year 1971 Headnote 3(a) watch assembly operation, irrespective of whether such taxes are partially or fully exempt by the territorial government. In making allocations under this formula, an equal weight of 40 percent will be assigned to production and shipment history and to wages subject to FICA taxes, and a weight of 20 percent will be assigned to the combined net dollar amount of the four above stated taxes applicable to calendar year 1971 Headnote 3(a) watch assembly operations.

SEC. 4. (Guam only) The annual quotas for calendar year 1972 for Guam will be allocated as soon as practicable after April 1, 1972, on the basis of the number of units assembled by each firm in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1971, and the total dollar amount of wages subject to FICA taxes paid by such firm in the territory during calendar year 1971 to persons whose pay was attributable to its Headnote 3(a) watch assembly operation. In making allocations under this formula, equal weight will be assigned to production and shipment history and to wages subject to FICA taxes.

SEC. 5. (Virgin Islands and Guam) For purposes of allocating watch quotas for calendar year 1972 under sections 3 and 4 above, any watches or watch movements shipped from the Virgin Islands or Guam during calendar year 1971 for duty-free entry into the customs territory of the United States against a firm's 1971 watch quota, and which were lost prior to admission into the customs territory of the United States, shall nevertheless be considered as having been entered into the customs territory for purposes of quota fulfillment: *Provided,* That the Departments have been satisfied that shipment was in fact made but lost prior to admission into the customs territory.

SEC. 6. (Virgin Islands and Guam) Application forms will be mailed to recipients of initial quota allocations as soon as practicable and must be filed with the Departments on or before January 31, 1972. All data required must be supplied as a condition for annual allocations and are subject to verification by the Departments. In order to accomplish this verification it will be necessary for representatives of the Departments to meet with appropriate officials of quota recipients in the insular possessions in order to have access to company records. Representatives of the Departments plan to perform this verification beginning on or about February 15, 1972, in Guam and beginning on or about March 1, 1972, in the Virgin Islands, and will contact each firm locally regarding the verification of its data.

SEC. 7. (American Samoa only) By notice published in the FEDERAL REGISTER on March 20, 1971 (36 F.R. 5372), the Departments of Commerce and the Interior allocated the American Samoa duty-free watch quota for calendar year 1971 to the Bulova Watch Co., Inc. In this notice the Departments stated that "Because of the time and investment costs required to establish a watch movement assembly operation which will make a substantial and lasting contribution to the economy of American Samoa, the Departments do not intend to invite applications from new entrants for the allocable calendar year 1972 American Samoa watch quota unless (1) the recipient of the 1971 calendar year quota fails to abide substantially with the terms and conditions in its application upon which the Departments relied in making the quota allocation for calendar year 1971, or (2) the amount of the duty-free watch quota available to American Samoa for calendar year 1972 is sufficiently greater than that available for calendar year 1971 as to sustain more than one economically viable watch assembly operation in American Samoa."

As the recipient of the 1971 Samoan watch quota has abided substantially with the terms and conditions of its application, the Departments will not invite applications from new entrants for the allocable calendar year 1972 American Samoa watch quota unless the amount of such quota is sufficiently greater than the available 1971 calendar year quota as to sustain more than one economically viable watch assembly operation in American Samoa. Such information will become available to the Departments on or about April 1, 1972, at which time, in the unlikely event that the quota for calendar year 1972 avers to be substantially greater than for calendar year 1971, the Departments would consider the possibility of inviting applications from new entrants. A decision to issue such an invitation would be published in the FEDERAL REGISTER before June 1, 1972.

SEC. 8. The rules restricting transfers of duty-free quotas issued on January 29, 1968, and published in the FEDERAL REGISTER on January 31, 1968 (33 F.R. 2399), are hereby incorporated by reference as applicable to transfers of quotas issued during calendar year 1972 except that detailed reporting of ownership and control will be reported on an annual basis on Form OIPF-764 at the time the firm applies for an annual duty-free watch quota for calendar year 1972. Subsequent change in ownership and control will be reported on April 15, July 15, and October 15, 1972, on Form OIPF-844 required in section 2 above.

Any interested party has the right to petition for the amendment or repeal of the foregoing rules and may seek relief from the application of any of their provisions upon a showing of good cause under the procedures relating to reviews by the Secretaries of Commerce and the Interior which were published in the FEDERAL REGISTER on November 17, 1967 (32 F.R. 15818).

Dated: January 3, 1972.

HARRISON LOESCH,
Assistant Secretary for Public Land Management, Department of the Interior.

STANLEY NEHMER,
Deputy Assistant Secretary for Resources, Department of Commerce.

[FR Doc.72-282 Filed 1-6-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

OVER-THE-COUNTER ANTIBACTERIAL INGREDIENTS IN DRUG PRODUCTS FOR REPEATED DAILY HUMAN USE

Request for Data and Information Regarding Safety and Efficacy Review

The FDA is undertaking a review of all over-the-counter (OTC) drug products currently marketed in the United States, to determine that these OTC products are safe and effective for their labeled indications. This review will utilize expert panels working with FDA personnel.

A notice of proposed rule making outlining procedures and explaining the purpose for this review was published in the FEDERAL REGISTER of January 5, 1972.

To facilitate this review and a determination as to whether an OTC drug for human use is generally recognized as safe and effective and not misbranded under its recommended conditions of use, and to provide all interested persons an opportunity to present for the consideration of the reviewing experts the best data and information available to support the stated claims for these drug products that contain antibacterial ingredients, we are inviting submission of data, published and unpublished, and other information pertinent to all active ingredients utilized as antibacterial components of drug products for repeated human use.

FDA is aware that the following active ingredients are used in such products:

Hexachlorophene.
Resorcinol.
Salicylic acid.
Zinc sulfate.
Benzethonium chloride.
Triclocarban (TCC).
Cloflucarban.
Tribromsalan (TBS).

Interested parties are also invited to submit data on any other active antibacterial ingredients which they may wish to be considered.

To be considered, seven copies of the data and/or views must be submitted in the following format:

OTC DRUG REVIEW INFORMATION

I. Label(s) and all labeling.

II. A statement of the complete quantitative composition of the drug.

III. Animal safety data.

A. Individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

B. Combinations of the individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

C. Finished drug product.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

IV. Human safety data.

A. Individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports (not testimonial reports).

4. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.

B. Combinations of the individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports (not testimonial reports.)

4. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.

C. Finished drug product.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports (not testimonial reports).

4. Pertinent marketing experiences that may influence a determination as to the safety of the finished drug product.

V. Efficacy data.

A. Individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports (not testimonial reports).

B. Combinations of the individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports (not testimonial reports).

C. Finished drug product.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports (not testimonial reports).

VI. A summary of the data and views setting forth the medical rationale and purpose (or lack thereof) for the drug and its ingredients and the scientific basis (or lack thereof) for the conclusion that the drug and its ingredients have been proven safe and effective for the intended use. If there is an absence of controlled studies in the material submitted, an explanation as to why such studies are not considered necessary must be included.

Data should be submitted to:

Food and Drug Administration, Bureau of Drugs, OTC Drug Products Evaluation Staff (BD-105), 5600 Fishers Lane, Rockville, Maryland 20852.

These data shall be submitted within 30 days from date of this publication.

(Federal Food, Drug, and Cosmetic Act, sec. 701; 21 U.S.C. 371)

Dated: January 3, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-210 Filed 1-6-72;8:45 am]

Public Health Service

REGIONAL HEALTH DIRECTORS

Delegation of Authority

I hereby delegate to the Regional Health Directors the authority to make grants to units of general local government in any State of their respective regions following the provisions of title I and title II of Public Law 91-695 (42 U.S.C. 4801-4811), the Lead-Based Paint Poisoning Prevention Act.

VERNON E. WILSON, M.D.,
Administrator.

DECEMBER 29, 1971.

[FR Doc.72-244 Filed 1-6-72;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-275]

PACIFIC GAS & ELECTRIC CO.

Order Extending Completion Date

Pacific Gas & Electric Co. has filed a request dated December 28, 1971, for an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-39, for construction of a 3,250 megawatt (thermal) pressurized water nuclear reactor, designated as the Diablo Canyon Nuclear Plant, Unit No. 1 at the applicant's site in San Luis Obispo County, Calif. Good cause having been shown for extension of said date pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55 of the Commission's regulations:

It is hereby ordered, That the latest completion date is extended from December 31, 1971 to July 1, 1974.

Date of issuance: December 30, 1971.

For the Atomic Energy Commission.

RICHARD C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Division of Reactor Licensing.

[FR Doc.72-264 Filed 1-6-72;8:47 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Availability of Applicant's Supplemental Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commisison's regulations, notice is hereby given that a report entitled "Supplement Number 1, Applicant's Environmental Report, Operating License Stage, Fort St. Vrain Nuclear Generating Station" submitted by the Public Service Company of Colorado, is being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Greeley Public Library, City Complex Building, Greeley, Colo. 80631. The report is also being made available to the public at the Office of the Executive Director, Department of Local Affairs, 1550 Lincoln Street, Denver, CO 80203.

This report discusses environmental considerations related to the proposed operation of the Fort St. Vrain Nuclear Generating Station located near Platteville in Weld County, Colo.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the Applicant's supplemental Environmental Report and the draft detailed statement. The summary notice will request, within thirty (30) days, comments from interested persons on the Applicant's supplemental Environmental Report and the draft detailed statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 30th day of December 1971.

For the Atomic Energy Commission.

DONALD F. KNUTH,
Acting Assistant Director for Boiling Water Reactors, Division of Reactor Licensing.

[FR Doc.72-271 Filed 1-6-72;8:48 am]

[License 05-13943-01E]

STATITROL CORP.

Notice of Issuance of Amendment to Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to § 32.26 of 10 CFR Part 32, issued Amendment No. 1 to License No. 05-13943-01E to Statitrol Corp., 140 South Union Boulevard, Lakewood, CO 80228, which authorizes the distribution of the Model 700 ionization fire detector to persons exempt from the requirements for a license pursuant to § 30.20 of 10 CFR Part 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of the detector is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium-241.

2. The byproduct material incorporated in the detector is americium in the oxide form contained in foils manufactured by Nuclear Radiation Developments (Model A-001) or by the Radiochemical Centre (Model AMM). The maximum activity contained in the unit is 1.3 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (Statitrol Corp.) and the byproduct material (americium-241) contained in the unit and recommending that the unit be returned to the Statitrol Corp. for repair or disposal.

A copy of the amended license and a safety evaluation containing additional information, prepared by the Division of Materials Licensing, is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Dated at Bethesda, Md., December 30, 1971.

For the Atomic Energy Commission.

S. H. SMILEY,
Director,
Division of Materials Licensing.

[FR Doc.72-268 Filed 1-6-72;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23976]

AERLINTE EIREANN TEORANTA

Notice of Postponement of Prehearing Conference Regarding New York Deletion

Notice is hereby given that the prehearing conference in the above-entitled proceeding, now assigned to be held on January 19, 1972, is postponed to January 24, 1972. The date for the circulation of material by the Bureau of Operating Rights is changed to January 3, 1972. The date for circulation of material by other parties is changed to January 17, 1972. The prehearing conference will be held in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, beginning at 10 a.m.

Dated at Washington, D.C., January 3, 1972.

[SEAL] GREER M. MURPHY,
Hearing Examiner.

[FR Doc.72-278 Filed 1-6-72;8:48 am]

[Dockets Nos. 23354, etc.; Order 71-12-143]

ALOHA AIRLINES, INC., AND HAWAIIAN AIRLINES, INC.

Order Approving Agreement and Dismissing Enforcement Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of December 1971. Agreement of Aloha Airlines, Inc., and Hawaiian Airlines, Inc. relating to schedules over their respective routes, Agreement CAB 22539, Amendment 1, Docket 23354; Aloha Airlines, Inc. v. Hawaiian Airlines, Inc., enforcement proceeding, Docket 21604; Hawaiian Airlines, Inc. v. Aloha Airlines, Inc., enforcement proceeding, Docket 21695.

By Order 71-6-124, the Board authorized scheduling discussions between Aloha Airlines, Inc. (Aloha) and Hawaiian Airlines, Inc. (Hawaiian). Pursuant to that order, the carriers met and negotiated an agreement which was signed and submitted to the Board on July 15, 1971. By Order 71-8-58, dated August 12, 1971, the Board approved agreement CAB 22539, in part,[1] for 90 days, and authorized discussions for the purpose of amending the agreement to correct certain deficiencies therein. Pursuant to that order, the carriers met and negotiated Amendment 1 to the agreement.

On November 3, 1971, the carriers petitioned the Board for approval of Agreement CAB 22539 dated July 16, 1971, and Amendment 1 thereto, dated November 3, 1971.

[1] The Board deferred action on paragraph (9) (b) of the agreement which states "It is expressly understood that this agreement shall be of no effect unless the agreement is acceptable to the Board as constituting a settlement or dismissal of the cases covered by Dockets 21604 and 21695".

The amendment provided that neither carrier will increase its present schedules in the "four major markets"[2] until the summer schedules are put into effect on or about June 15, 1972. Hawaiian agreed that in the summer of 1972, it will decrease its 1971 summer schedules by 28 weekly segment-flights in the "four major markets" and Aloha may increase its 1971 summer schedules by up to 28 weekly segment flights in the "four major markets." The carriers agreed that if they forecast any growth from 1971 to 1972, they will increase the schedules by the forecast percentage. If the forecast results in the addition of 28 or fewer flights, Aloha will add them all. Any schedules to be added over 28 will be added by each carrier on a 50–50 basis. The carriers have agreed that if their forecasts of growth for 1972 differ, and they are unable themselves to resolve their differences, the dispute shall be resolved by an arbitration panel of three members, one appointed by each carrier and a third selected by the two arbitrators.

Upon consideration of the material contained in the record, we have decided to approve the amended agreement for a period of 2 years from the date of the original agreement. The fall schedules now being operated provide a satisfactory level of service to the public, and, by improving Aloha's share of capacity without increasing total schedules in the major markets, the agreement is making a substantial contribution to viable competition in the intra-Hawaiian markets. Aloha is operating 43.6 percent of the fall schedules in the four major markets.

We find that the 1972 summer schedules proposed by Amendment 1 to this agreement will not result in a deterioration of service to the public and that the agreement, as amended, represents progress toward alleviating overcapacity problems and holds promise of continuing to insure the survival of Aloha while allowing Hawaiian to operate at a profit.[3] In the summer of 1971, the carriers had a combined system load factor of 58.1 percent. The carriers will continue the same level of service, unless they anticipate growth, in which case schedules will be added to maintain the same load factor as the summer of 1971. Thus, service to the traveling public will be unimpaired by the amended agreement. Aloha's share of the schedules to be offered will be increased from the 40 percent of 1971 schedules to 43.1 percent of 1972 summer schedules assuming no growth. With a good growth rate, Aloha can expect to operate about 45 percent of the 1972 summer schedules. In these circumstances, implementation of the proposed schedules should afford both Aloha and Hawaiian a reasonable opportunity to operate at a profit during the summer of 1972.

In view of the foregoing, we find that agreement CAB 22539, and Amendment 1 thereto, will not be adverse to the public interest or in violation of the Act, and should be approved.[4] We reiterate our prior finding[5] that our action approving this amended agreement is predicated upon the unique circumstances surrounding the agreement and affecting the operations of Aloha and Hawaiian, and the necessity for extraordinary measures to preserve competitive intra-Hawaiian service.

Accordingly, it is ordered, That:

1. Agreement CAB 22539, and Amendment 1 thereto, be and they hereby are approved;

2. Aloha and Hawaiian be and they hereby are authorized to engage in discussions in implementation of this agreement as amended, pursuant to the terms and conditions of Order 71–6–124, dated June 24, 1971;

3. The approvals granted herein shall expire July 15, 1973.

4. Pursuant to 49 U.S.C. 1382(b), the Board will retain continuing jurisdiction over this agreement and may modify its approval of, or disapprove the agreement at any time without hearing, or take whatever action may be deemed appropriate; and

5. The enforcement proceedings in Dockets 21604 and 21695, be and they hereby are dismissed without prejudice.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-280 Filed 1-6-72;8:48 am]

[Docket No. 23486; Order 71-12-135]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Free and Reduced Fare Transportation for Passenger Sales Agents and Tour Conductors

Issued under delegated authority December 30, 1971.

By Order 71–12–39, dated December 8, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA). The agreement, which was adopted as a result of the Fourth Meeting of the Passenger Agency Committee held August 16–21, 1971, in Geneva, would amend resolutions governing free or reduced fare transportation for passenger sales agents and tour conductors.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 71–12–39 will herein be made final.

Accordingly, it is ordered, That:

1. Agreement CAB 22766, R–2, be and hereby is approved: *Provided,* That:

Approval of said resolution, insofar as it is applicable in air transportation as defined by the Federal Aviation Act of 1958, shall not be construed as:

(a) An exemption from the requirements of filing tariff provisions as a condition precedent under section 403 of the Federal Aviation Act of 1958 to the issuance of passes to any person described in said resolution;

(b) A determination as to whether a violation of section 404 of the Federal Aviation Act of 1958 would result from the issuance of passes pursuant to such resolution whether or not tariff provisions applicable thereto have previously been filed with the Board; and

(c) An exemption from the provisions of the Board's economic regulations relating to tariffs for free or reduced rate transportation.

2. Agreement CAB 22766, R–3, be and hereby is approved: *Provided,* That:

(1) Free or reduced rate transportation for U.S.-based agents shall be limited to the extent permitted by the provisions of Resolution 203 (U.S.A.) and shall not be provided under entertainment or instruction provisions of other passenger agency resolutions, e.g., Resolution 810a (U.S.A.)—Section J;

(2) Approval of said resolution, insofar as it is applicable in air transportation as defined by the Federal Aviation Act of 1958, shall not be construed as:

(a) An exemption from the requirements of filing tariff provisions as a condition precedent under section 403 of the Federal Aviation Act of 1958 to the issuance of passes to any person described in said resolution;

(b) A determination as to whether a violation of section 404 of the Federal Aviation Act of 1958 would result from the issuance of passes pursuant to such resolution whether or not tariff provisions applicable thereto have previously been filed with the Board; and

(c) An exemption from the provisions of the Board's economic regulations relating to tariffs for free or reduced rate transportation.

3. Agreement CAB 22766, R–4, be and hereby is approved: *Provided,* That:

(1) Approval shall not extend to U.S.-based agents: *Provided further,* That free or reduced rate transportation for U.S.-based agents may not be provided under entertainment or instruction provisions of other passenger agency resolutions, e.g., Resolution 810a (U.S.A.)—section J:

---

[2] Honolulu-Hilo, Honolulu-Kauai, Honolulu-Maui, and Maui-Kona.

[3] On the other hand, absent this agreement, and failing alternative Board action, Aloha's chances of survival would be significantly lessened. Should Aloha fail, the public would, at least initially, be deprived of the significant benefits of competitive intra-Hawaiian service. Thus, we believe that the approval of the amended agreement is required by an important transportation need.

[4] We will also dismiss the enforcement proceedings in Dockets 21604 and 21695 without prejudice. In view of the agreement approved herein, there is a substantial prospect that the relief requested in the enforcement proceeding will be unnecessary.

[5] Order 71–8–58, dated Aug. 12, 1971.

(2) Approval of said resolution, insofar as it is applicable in air transportation as defined by the Federal Aviation Act of 1958, shall not be construed as:

(a) An exemption from the requirements of filing tariff provisions as a condition precedent under section 403 of the Federal Aviation Act of 1958 to the issuance of passes to any person described in said resolution;

(b) A determination as to whether a violation of section 404 of the Federal Aviation Act of 1958 would result from the issuance of passes pursuant to such resolution whether or not tariff provisions applicable thereto have previously been filed with the Board; and

(c) An exemption from the provisions of the Board's economic regulations relating to tariffs for free or reduced rate transportation.

4. Agreement CAB 22766, R-5, be and hereby is approved: *Provided,* That:

Approval of said resolution, insofar as it is applicable in air transportation as defined by the Federal Aviation Act of 1958, shall not be construed as:

(a) An exemption from the requirements of filing tariff provisions as a condition precedent under section 403 of the Federal Aviation Act of 1958 to the issuance of passes to any person described in said resolution;

(b) A determination as to whether a violation of section 404 of the Federal Aviation Act of 1958 would result from the issuance of passes pursuant to such resolution whether or not tariff provisions applicable thereto have previously been filed with the Board; and

(c) An exemption from the provisions of the Board's economic regulations relating to tariffs for free or reduced rate transportation.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-279 Filed 1-6-72;8:48 am]

[Docket No. 23224]

EASTERN AIR LINES, INC.

Notice of Hearing Regarding Waycross Deletion Case

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to he held on February 1, 1972 at 2 p.m. (local time) in the U.S. District Court, Post Office Building, 605 Elizabeth Street, Waycross, GA, before the undersigned Examiner.

Dated at Washington, D.C., January 3, 1972.

[SEAL] JOHN E. FAULK,
Hearing Examiner.

[FR Doc.72-231 Filed 1-6-72;8:48 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Economic Stabilization Section, Civil Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-258 Filed 1-6-72;8:46 am]

GENERAL SERVICES ADMINISTRATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Director of Congressional Affairs, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-260 Filed 1-6-72;8:46 am]

ACTION

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of ACTION to fill by noncareer executive assignment in the excepted service the position of Deputy Associate Director for Older Americans Programs, Office of the Associate Director for Domestic and Anti-Poverty Operations.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-261 Filed 1-6-72;8:46 am]

GENERAL SERVICES ADMINISTRATION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Director of Public affairs, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-259 Filed 1-6-72;8:46 am]

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order 748]

DEPUTY GOVERNOR AND DIRECTOR OF COOPERATIVE BANK SERVICE

Authority and Order of Precedence

JANUARY 1, 1972.

1. The Deputy Governor and Director of Cooperative Bank Service shall, subject to the jurisdiction and control of the Governor of the Farm Credit Administration, execute and perform all functions, powers, authority, and duties relative to cooperative banks and to matters incidental thereto, and the administration of the provisions of law relative to banks for cooperatives.

2. In the event that the Deputy Governor and Director of Cooperative Bank Service, Farm Credit Administration, is absent or is not able to perform the duties of his office for any other reason, the officer who is the highest on the following list and who is available to act is hereby authorized to exercise and perform all functions, powers, authority, and duties pertaining to the office of Deputy Governor and Director of Cooperative Bank Service:

(1) Noel G. Stocker, Senior Loan and Operations Officer, Cooperative Bank Service.

(2) Earl R. Kittredge, Loan and Operations Officer, Cooperative Bank Service.

(3) Samuel E. Davis, Loan and Operations Officer, Cooperative Bank Service.

(4) C. David Hollis, Loan and Operations Specialist, Cooperative Bank Service.

3. This order shall be and become effective on the date above written and supersedes Farm Credit Administration Order No. 745 (36 F.R. 4901).

E. A. JAENKE,
Governor,
Farm Credit Administration.

[FR Doc.72-242 Filed 1-6-72;8:45 am]

FEDERAL MARITIME COMMISSION

PHILADELPHIA PORT CORP. AND DELAWARE RIVER TERMINAL AND STEVEDORING CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the

Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Robert A. Peavy, Esq., Morgan, Lewis & Bockius, 1140 Connecticut Avenue NW., Washington, DC 20036.

Notice of Agreement No. T-2455, between the Philadelphia Port Corp. (Port) and Delaware River Terminal and Stevedoring Co., Inc. (DRTS), appeared in the FEDERAL REGISTER on September 26, 1970 (Vol. 35, No. 188, p. 15027). The agreement has been refiled for approval with certain changes. The refiled agreement provides for the 5-year lease, with renewal options, of Berths 4 and 5 of Tioga Terminal and approximately 22 acres of contiguous land area at Philadelphia, Pa. DRTS will use the premises as a marine terminal and, as rental, will pay the Port an annual payment of $100,000 plus certain rents and taxes. The original agreement has now been modified to delete items providing that (1) rates charged for container handling at this facility and at a proposed Packer Avenue container terminal be equal and subject to the Port's approval; (2) rental terms for the container berths at both Packer Avenue Terminal and at the Tioga Terminal be equal; (3) the Port has the right to direct DRTS to adjust its operations should interference in the handling of containers be apparent; (4) the Port has the right to review containership schedules and direct the transfer of vessels between Port owned container terminals should a terminal be unable to accept a scheduled vessel; and (5) DRTS may assign the lease to International Terminal Operating Co., Inc. of New York.

Dated: January 3, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-273 Filed 1-6-72;8:47 am]

GLOBAL TERMINAL & CONTAINER SERVICES, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Global Terminal & Container Services, Inc., Japan Line, Ltd., Kawaski Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, and Yamashita Shinnihon Steamship Co., Ltd.

Agreement No. 9977, between Global Terminal & Container Services, Inc. (Global) and Japan Line, Ltd.; Kawaski Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; and Yamashita Shinnihon Steamship Co., Ltd. (the "Lines"), is a cooperative working arrangement wherein Global will provide the Lines for a term of 3 years (with renewal options), container terminal, stevedore, and LCL (container freight station) services. The Lines are bound by the agreement to use Global's facilities exclusively for their containership operations between the Ports of New York and Japan. Compensation for services performed by Global are set forth in detail in the agreement.

Dated: January 4, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-265 Filed 1-6-72;8:47 am]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Barnett Bank of West Orlando, Orlando, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 3, 1972.

Board of Governors of the Federal Reserve System, January 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-245 Filed 1-6-72;8:46 am]

NORTH AMERICAN MORTGAGE CORP.

Acquisition of Bank

North American Mortgage Corp., St. Petersburg, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 23.9 percent or more of the voting shares of The American Bank, St. Petersburg, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 31, 1972.

Board of Governors of the Federal Reserve System, December 30, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-246 Filed 1-6-72;8:46 am]

WEERVA, INC.

Acquisition of Banks

Weerva, Inc., Lakewood, Colo., has applied in five separate applications as listed below for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of:

(1) First Westland National Bank, Lakewood, Colo.;
(2) The Erie Bank, Erie, Colo.;
(3) The Bank of Vail, Vail, Colo.;
(4) Eagle Valley Bank, Minturn, Colo.; and
(5) Westland National Bank, Longmont, Colo.

The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 3, 1972.

Board of Governors of the Federal Reserve System, January 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-247 Filed 1-6-72;8:46 am]

FOREIGN-TRADE ZONES BOARD

[Order 87; Sub-Zone No. 2-B]

NEW ORLEANS, LA.

Voluntary Relinquishment of Grant for Foreign-Trade Sub-Zone

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board has adopted the following order:

Whereas, on November 19, 1968, the Foreign-Trade Zones Board, by Order No. 78 (33 F.R. 17378), issued a grant to the Board of Commissioners of the Port of New Orleans, a public corporation and and agency of the State of Louisiana, to establish and operate Foreign-Trade Sub-Zone No. 2-B on the Inner Harbor Navigation Canal, New Orleans, La.;

Whereas, Foreign-Trade Sub-Zone No. 2-B was opened on May 14, 1969;

Whereas, the Board of Commissioners of the Port of New Orleans petitioned the Foreign-Trade Zones Board on August 19, 1971, requesting its approval of the voluntary relinquishment of the subzone grant because authorized subzone perations have been completed and there operations have been completed and there is no immediate prospect of future operations which would serve the purpose for which the subzone was authorized; and

Whereas, the District Director of Customs, New Orleans, La., has stated that all accounts and administrative matters concerning U.S. Customs have been closed, and that all operations conducted at the subzone site utilizing foreign-trade zone privileges were terminated prior to August 27, 1971;

Now, therefore, the Foreign-Trade Zones Board, after full consideration and a finding that approval of the grantee's petition for voluntary relinquishment of the grant for Sub-Zone No. 2-B is in the public interest, hereby revokes said grant effective August 27, 1971, and rescinds Order No. 78 under which this grant was issued.

Signed at Washington, D.C., this 23d day of December 1971.

[SEAL] MAURICE H. STANS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:
JOHN J. DAPONTE, Jr.,
Acting Executive Secretary.

[FR Doc.72-250 Filed 1-6-72;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3036]

ISRAEL DEVELOPMENT CORP.

Notice of Filing of Application for Order Permitting Joint Participation

DECEMBER 29, 1971.

Notice is hereby given that Israel Development Corp. (Applicant), 30 East 42d Street, New York, NY 10017, a New York corporation registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 17(d) of the Act and Rule 17d-1 thereunder for an order permitting the joint participation by Applicant and Ampal-American Israel Corp. (Ampal) in an exchange offer to be made in connection with the voluntary reorganization of Sefen Ltd. (Sefen), a corporation organized and existing under the laws of the State of Israel.

All interest persons are referred to the amended application on file with the Commission for a full statement of the representations therein, which are summarized below.

The parties. Ampal was organized under the laws of the State of New York on February 6, 1942, for the purposes of developing trade between the United States and Israel and otherwise assisting in the economic development of Israel, principally through making loans to and investments in various Israeli business enterprises. Applicant was organized in 1951 by Ampal to provide a medium for public investment by American citizens in Israel's economy. As of May 31, 1971, Applicant had outstanding 1,222,678 shares of common stock, of which 83,022 shares or 6.8 percent was owned by Ampal. By reason of such stock ownership, Applicant and Ampal are affiliated persons within the meaning of section 2(a)(3) of the Act.

Sefen was organized on May 24, 1951, and is primarily engaged within the boundaries of the State of Israel in the manufacture of laminated plastics, soft and hard board, and insulating materials. Sefen had on March 31, 1971, issued and paid up capital in the amount of 4,459,220 Israel Pounds (IL.). Sefen's voting securities consist of 19,631 Ordinary "A" Shares and 19,631 Ordinary "B" Shares, each share having one vote. The Ordinary "A" Shares and Ordinary "B" Shares have a par value of IL. 100 each and are linked to the U.S. Dollar at varying rates ranging from $1=IL. 1 to $1=IL. 3.50. These varying linkage rates reflect the respective rates of exchange of the Israel Pound to the U.S. Dollar that were prevailing on the dates of issuance of Sefen's securities. The prevailing exchange rate of the Israel Pound to the U.S. Dollar as of December 1, 1971 was $1=IL. 4.20. In addition, Sefen's Ordinary "B" Shares carry a right of preference to a 7 percent dividend before any dividend may be paid to the holders of Sefen's Ordinary "A" Shares. Sefen also has outstanding several classes of nonvoting securities including Deferred Shares "B" par value IL. 0.10 each.

Applicant and Ampal held on March 31, 1971, 13,969 or 71.2 percent and 5,662 or 28.8 percent respectively, of Sefen's Ordinary "B" Shares and Applicant also held 100 of Sefen's Deferred Shares "B". Thus Applicant and Ampal together, hold 100 percent of Sefen's Ordinary "B" Shares which constitutes 50 percent of Sefen's outstanding voting Shares.

The proposed transaction. It is proposed that Sefen be reorganized by forming a new company to be called Industries and Investments of Sefen Limited (Industries) which will function as the parent and holding company for Sefen and various other proposed business ventures. The application states that the reorganization is necessary to permit Industries to diversify and expand into new enterprises some of which are presently outside the scope of the objects and powers of Sefen as set forth in its Memorandum of Association. It is further stated that the reorganization will result in certain tax advantages to Industries under Israel's Law for the Encouragement of Capital Investments, which are not presently available to Sefen.

The reorganization is to be accomplished through the voluntary exchange of Sefen's voting securities, including the "B" Shares held by Applicant and Ampal on a one-for-one basis, for shares of Industries.

Upon completion of the proposed exchange the voting securities of Sefen will be wholly owned by Industries and Sefen will be a wholly owned subsidiary of Industries. The outstanding voting securities of Industries will be held by the

present holders of Sefen's voting securi-nonvoting securities (including the Deferred "B" shares held by Applicant) will continue to be owned directly by the present shareholders of such securities, with the exception of 830 nonvoting shares, par IL. 100 held by an individual, which will be exchanged for an equal number of comparable nonvoting securities of Industries.

The application states that the securities of Industries which are to be exchanged for Sefen's voting securities will be of the same classes with the same linkages to the U.S. Dollar (i.e., Ordinary "A" and Ordinary "B" voting shares) and will carry rights and privileges equal to or greater than Sefen's securities except that Industries' Ordinary "B" voting shares will not contain provisions for a dividend preference over any of its other securities.) In addition, the application states that the shares of Industries will provide greater rights with respect to the convertibility to U.S. Dollars of dividends and amounts which would be paid upon winding up and would permit full conversion of the proceeds of the sale of such shares into U.S. Dollars. In this connection, a permit of the Minister of Finance of the State of Israel with respect to investments in Sefen recognizes total investments in Sefen by Applicant and Ampal (on a pro rata basis) of $520,000 which may be removed from Israel in U.S. Dollars and limits the convertibility on a pro rata basis into U.S. Dollars of dividends on Sefen's shares to 10 percent per annum. Any amounts in excess of the above limits could be received by Applicant and Ampal only in Israel Pounds. A similar permit granted with respect to Industries will recognize total investments in that company by Applicant and Ampal (on a pro rata basis) in the amount of $967,971, thereby taking into account various stock dividends distributed by Sefen since 1957, and contains no limits on the convertibility of dividends or amounts which may be paid upon the winding-up of Industries. The new permit also allows full convertibility into U.S. Dollars of the proceeds upon the sale of Industries shares.

Supporting statements. Applicant represents that it and the management of Ampal have determined that it is desirable and in the best interest of both companies to exchange their holdings in Sefen for shares of Industries because they will receive advantageous treatment in regard to the receipt of foreign exchange. In this connection, Applicant represents that under the terms of approval of the proposed reorganization by the Controller of Foreign Exchange of Israel, there are no limitations on the convertibility into U.S. Dollars of amounts to be paid Applicant upon winding-up of Industries or resale of the investment in Industries.

Applicant further represents that the proposed participation of Applicant in the exchange of shares will be undertaken on a basis neither different from nor less advantageous than that of Ampal, in that the relative ownership of the securities of Industries by Applicant and Ampal will be unchanged.

Statutory provisions. Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provided, as here pertinent, that no affiliated person of any registered investment company, shall, acting, as principal, participate, in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company, is a participant, unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by order, and that in passing upon such application the Commission will consider whether the participation of the registered or controlled company in the joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Notice is further given that any interested person may, not later than January 20, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commisson's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-243 Filed 1-6-72;8:45 am]

[812-3072]

SHEARSON APPRECIATION FUND, INC. AND SHEARSON CAPITAL FUND, INC.

Notice of Application for Order Providing That a Director of the Funds Shall Not Be Deemed an "Interested Person" of the Funds or Their Principal Underwriter Solely Because of Another Directorship

JANUARY 3, 1972.

Notice is hereby given that The Shearson Appreciation Fund, Inc., and The Shearson Capital Fund, Inc. (the Funds), 14 Wall Street, New York, NY 10005, both open-end diversified, management investment companies registered as such under the Investment Company Act of 1940, as amended (Act), have filed an application pursuant to section 6(c) of the Act for an order providing that Harry W. Knight (Knight) a director of each of the Funds, shall not be deemed an "interested person" of the Funds' principal underwriter (or of the Funds) within the meaning of section 2(a)(19) of the Act solely by reason of his status as a director of INA Life Insurance Company of New York. All interested persons are referred to the application on file with the Commission for a statement of representations made therein, which are summarized below.

Shares in both Funds are offered for sale pursuant to principal underwriting contracts with Shearson, Hammill & Co. Inc. (Shearson). Pursuant to section 10(b) of the Act, the Funds are required to have, as a majority of their directors, persons who are not "interested persons" of Shearson within the meaning of section 2(a)(19) of the Act. The present composition of the boards of directors of both Funds is identical, and is such that changes in the boards or positions held by certain dircetors would be required if Knight were an "interested person" of Shearson.

The application pertains solely to the status of Knight under the Act as it is affected by his position as a director or INA Life Insurance Company of New York (INA New York). INA New York is a wholly owned subsidiary of the Insurance Company of North America which is in turn a wholly owned subsidiary of INA Corp. (INA). INA has three other wholly owned subsidiary corporations, INA Securities Corp., INA Trading Corp., and Blyth & Co., not parents or subsidiaries of INA New York, which are registered broker-dealers under the Securities Exchange Act of 1934. Thus, Knight's connection with the three broker-dealers is that a corporation, INA, which is a parent of corporation of which he is an outside director is also the parent of the broker-dealers.

Section 2(a)(19)(B)(v), with respect to an interested person of a principal underwriter to an investment company,

and section 2(a)(19)(A)(iii), with respect to an interested person of an investment company, define an "interested person" to include "any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer".

On the foregoing facts, if INA were found to "control" Knight because he is a director of INA New York, Mr. Knight would be an "affiliated person" of the INA subsidiary broker-dealers and, pursuant to section 2(a)(19)(B)(v) of the Act an "interested person" of Shearson and per section 2(a)(19)(A)(iii) of the Act, of the Funds. By filing this application the Funds do not admit that Knight is "controlled" by INA, but the basis of the application is that even if Knight were technically an "interested person" of Shearson, his connection with the INA broker-dealer subsidiaries is so remote to his functioning as an independent director of the Funds that an exemption pursuant to 6(c) is appropriate.

Knight's remote connection with the broker-dealers is such that he apparently has no personal interest in their business. On the other hand, INA has only a very limited power to affect Mr. Knight, i.e., by declining to reelect him to the board of INA New York. Knight is a man of independent means and standing in the business community, his remuneration as a director of INA New York is an insignificant portion of his total income and there is no other way in which he is affiliated with or dependent upon INA. Thus, Funds believe it would be consistent with the Act to disregard the remote relationship to the broker-dealers that results from Mr. Knight's position with INA New York in determining whether he is an "interested person" of Shearson and the Funds. Further, the Funds represent and warrant that so long as Knight remains a director, they will not transact business with the INA subsidiary broker-dealers as portfolio brokers or distributors of Fund shares.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the procedure fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than 5:30 p.m. on January 17, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-266 Filed 1-6-72;8:47 am]

[811-2069]

VENTURE SPECIAL FUND, INC.

Notice of Filing of Application an Order Declaring That Company Has Ceased To Be an Investment Company

DECEMBER 30, 1971.

Notice is hereby given that Venture Special Fund, Inc. (Applicant), 1 Wall Street, New York, NY 10005, registered under the Investment Company Act of 1940 (Act) as an open-end nondiversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was incorporated on December 15, 1969, under the laws of the State of Maryland, and registered under the Act on June 9, 1970.

Applicant represents, among other things, that it has issued no securities; that it has no assets; that a proposed public offering has been abandoned; that it does not intend to proceed with the completion of its registration statement under the Securities Act of 1933 because of market conditions in general; and that said registration statement was withdrawn on November 19, 1971.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 21, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by a certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-267 Filed 1-6-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

-ASSIGNMENT OF HEARINGS

JANUARY 4, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107576 Sub 20, Silver Wheel Freightlines, Inc., now assigned January 4, 1972, at Spokane, Wash., and January 10, 1972, at Portland Oreg., postponed indefinitely.

MC 127957 Sub 2, Dominick Spinelli, doing business as Direct Way Auto Shippers now assigned January 11, 1972, at Miami, Fla., postponed indefinitely.

MC-C-7397, Paul V. Adams Trucking, Inc.—Investigation and Revocation of Certificates, MC 9429, Sub 7, Paul V. Adams Trucking, now being assigned hearing February 14, 1972, at Boston, Mass., in a hearing room to be designated later.

MC–F–11160 and MC 3005 Sub 10, Chicago Kansas City Freight Line, Inc.—Purchase—Pride Motors, Inc., assigned January 31, 1972, MC 111375 Sub 48, Pirkle Refrigerated Freight Lines, Inc., assigned January 28, 1972, MC 112822 Sub 194, Bray Lines, Inc., assigned January 27, 1972, MC 113678 Sub 422, Curtis, Inc., assigned January 24, 1972, MC 117574 Sub 201, Daily Express, Inc., assigned January 25, 1972, will be held in Room 1736 Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 124211 Sub 184, Hilt Truck Line, Inc., assigned January 26, 1972, will be held in Room 1430, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 117574 Sub 184, Daily Express, Inc., MC 117574 Sub 191, Daily Express, Inc., now being assigned for hearing March 6, 1972, in New York, N.Y., in a hearing room to be designated later.

MC 98499 Sub 9, White Truck Line, Inc., now being assigned March 6, 1972, at the Ramada Inn, South Pleasantburg Drive, Greenville, S.C.

MC 46280 Sub 70, Key Line Freight, Inc., assigned January 31, 1972, MC 95084 Sub 81, Hove Truck Line, assigned January 24, 1972, MC 116073 Sub 165, Barrett Mobile Home Transport, Inc., assigned January 26, 1972, MC 127042 Sub 72, Hagen, Inc., assigned February 2, 1972, will be held in Room 1738A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 98499 Sub 10, White Truck Line, Inc., now being assigned March 6, 1972, at the Ramada Inn, South Pleasantburg Drive, Greenville, S.C.

MC 61592 Sub 222, Jenkins Truck Line, Inc., assigned January 24, 1972, MC 115841 Sub 410, assigned January 26, 1972, MC 59680 Sub 190, Strickland Transportation Co., Inc., assigned January 27, 1972, at Memphis, Tenn., will be held in Room 204, Federal Office Building, 167 North Main Street.

MC 83835 Sub 79, Wales Transportation, assigned January 27, 1972, MC 105045 Sub 26, R. L. Jeffries Trucking Co., assigned January 27, 1972, MC 113459 Sub 63, J. H. Jeffries Truck Line, assigned January 27, 1972, MC 117574 Sub 204, Daily Express, assigned February 1, 1972, MC 129340 Sub 1, A. C. Enterprises, assigned February 2, 1972, MC 135232, Crown Metal & Salvage, assigned January 21, 1972, MC 135580, Lambert Transfer & Storage, assigned January 25, 1972, at Columbus, Ohio, will be held in Room 2, State Office Building, 65 South Front Street.

MC–F–11169, International Cartage, Inc.—Purchase (Portion)—Mohawk Motor, Inc., assigned January 25, 1972, MC 22254 Sub 56, Trans-American Van Service, Inc., assigned January 31, 1972, MC 29886 Sub 270, Dallas & Mavis Forwarding Co., Inc., assigned February 3, 1972, MC 114457 Sub 108, Dart Transit Co., assigned January 24, 1972, MC 114569 Subs 93 and 94, Shaffer Trucking, Inc., assigned January 27, 1972, will be held in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 86913 Sub 33, Eastern Motor Lines, Inc., now assigned January 10, 1972, at Washington, D.C., postponed to March 6, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 2860 Sub 96, National Freight, assigned February 3, 1972, 105813 Sub 177, Belford Trucking Co., assigned January 31, 1972, MC 111729 Sub 306, American Courier, assigned January 25, 1972, MC 119777 Sub 206, Ligon Specialized Hauler, assigned January 24, 1972, MC 135257 Sub 1, The Big E Corp. assigned January 27, 1972, at Jacksonville, Fla., will be held in Room 714, Federal Office Building, 400 West Bay Street.

MC 129708 Sub 1, McRay Truck Line, Inc., Common Carrier Application, assigned January 31, 1972, MC 119777 Sub 207, Ligon Specialized Haulers, Inc., assigned February 3, 1972, MC 109540 Sub 24, Yeary Transfer Co, assigned February 1, 1972, in Louisville, Ky., in Room 829 Federal Building, 600 Federal Place.

MC 119632 Sub 44, Reed Lines, Inc., assigned January 24, 1972, at Columbus, Ohio, is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-276 Filed 1-6-72;8:48 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 4, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42330—*Liquefied Carbon Dioxide from New Orleans, La.* Filed by M. B. Hart, Jr., Agent (No. A6291), for interested rail carriers. Rates on carbon dioxide, liquefied, in tank-car loads, as described in the application, from New Orleans, La., to Jacksonville and South Jacksonville, Fla.

Grounds for relief—Market competition.

Tariff—Supplement 213 to Southern Freight Association, Agent, tariff I.C.C. S–699. Rates are published to become effective on February 10, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-275 Filed 1-6-72;8:48 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications; New Determinations

There is set forth below general Area Wage Determination Decision No. AM–5969 of the Secretary of Labor. This decision specifies in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the locality specified therein. The decision is applicable to Federal and federally assisted construction in the described locality situated within the State of Pennsylvania.

The determination in this decision of such prevailing rates and fringe benefits has been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in this decision shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal or federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the locality described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of this determination as prescribed in 5 U.S.C. 533, and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes such procedures to be impractical and contrary to the public interest.

This wage determination is effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and is to be used in accordance with the provisions of 29 CFR Part 5. Accordingly, the applicable determination together with any modification issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

The area wage determination decision for the locality within the above State is set forth below.

MODIFICATION TO AREA WAGE DETERMINATION DECISIONS

Modification to Area Wage Determination Decisions for specified localities in Alabama, Florida, Illinois, Maryland, Pennsylvania, Tennessee, and Virginia, and Washington, D.C.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	
AM–334, AM–337, AM–348, AM–349	Aug. 13, 1971
AM–443, AM–458, AM–504, AM–1842, AM–1843, AM–5968	Aug. 20, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes

in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 46 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following the Secretary of Labor's Order No. 24–70) containing provisions for payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule making procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

Signed at Washington, D.C., this 30th day of December 1971.

HORACE E. MENASCO,
Acting Assistant Secretary for Employment Standards.

U.S. DEPARTMENT OF LABOR

State: Pennsylvania; Counties: Centre, Clearfield, Jefferson, and Greene; Decision No. AM-5969; date of decision, January 7, 1972.

Description of work: Heavy and highway construction.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
PA-5-LAB-2-3-K:						
Heavy and highway construction:						
Laborers:						
Common laborers, carpenters' tenders handling salamanders, L. D. gas heaters of similar, fence construction and rip rap work	$4.51	$0.20	$0.20			
Batcherman (weight), blaster's helper, brakeman, drill runner's helper (includes drill mounted on truck, track, or similar), form stripper and mover, handyman, scaffolds and runways, sheeters and shorers	4.53	.20	.20			
Asphalt tampers, blower man (bulk cement), concrete pitman, puddler (including vibrator operators), air tamper operators, Y-gun	4.63	.20	.20			
Asphalt rakers, asphalt, batch and concrete plant operators (all manually operated plants), burner, caisson men (working in open air), carryable pumps, chain saw operator, chipping hammer, concrete buster (paving breaker) operator, concrete cribbing, curb machine operator, form setter (road forms lineman), highway slab, reinforcement placers, jackhammer man, joint and basket setters, mechanical joint sealer, pin driver or puller (power highway), pipe layers, plant setup, maintenance men, portable single unit conveyor, power fence operator, power wheel barrows and buggies, rail porter or similar, screed operator, signalman, walk behind forklift, whacker	4.84	.20	.20			
All railroad track work:						
Spike drivers, spike pullers, adzing machine, bolting machine, rail drills, rail saws, tamping machine, and power jacks	4.84	.20	.20			
Cement mortar pipe reline, cement mortar mixer, concrete saw operator (all walk behind), grout machine operator	5.02	.20	.20			
Blaster, cement mortar lining car pusher, form setter (road forms lead man), gunite (nozzle and machineman), paving block rammers, structural concrete top surface (leveling of concrete), wagon drill (operators) and air track or similar, walk behind power roller (one (1) or two (2) barrel), combination tamper and vibrator walk behind roller and tamper	5.13	.20	.20			
Blacksmith, welder	5.20	.20	.20			
Curb cutter and setters, brick and block pavers (wood, Belgian and asphalt), manhole or catch basin builders (brick, block concrete or any prefabrication), steel cribbing	5.25	.20	.20			
Reinforcing steel placers, bending, alining and securing	5.75	.20	.20			
Tunnel work and shaft (inside):						
Caisson and tunnel men under pressure (0-18 lbs.)	5.25	.30	.30			
Reinforcing steel placers, bending, alining and securing	5.75	.20	.20			
Miners and drillers (including lining supporting and form workmen)	5.01	.20	.20			
Drill runners' helper and signalmen	4.84	.20	.20			
Muckers, brakemen, and all other labor	4.72	.20	.20			
Change house attendant	4.51	.20	.20			
Laborers in trenches over ten (10) feet shall receive ten cents (10 cents) above their normal rate.						
Carpenters (by counties):						
Centre, Clearfield, Jefferson	6.23	4%	3%			
Greene	6.59	4%	3%			
Cement masons	6.45	.387	.645			
Piledrivermen	7.65	4%	5%			

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
PA-2-PEO-2-3-D						
Heavy and highway construction:						
Power equipment operators:						
Austin Western or similar (25 ton and over), Austin Western or similar (under 25 ton), Autograder (C.M.I. and similar), backfiller, backhoe—360 Swing, cableway, caisson drill (similar to Hugh Williams), central mix plant, cooling plant, concrete paving mixer, cranes, cranes (tower—stationary—climbing tower crane), derrick, boat, dragline, dredge, dredge hydraulic (1 leverman—1 oiler-apprentice), elevating grader, Franki pile machine, Gradall (remote control or otherwise), grader (power-fine grade), guard rail post driver (truck mounted), guard rail post driver (skid type), (self-propelled—Arrow or similar), helicopter (over 1,500-lb. lift), helicopter (under 1,500-lb. lift), Hilift (4 cylinders and over), hoists 2 drums or more (in one unit), Kocal, Koering Skooper, lead mechanic, locomotive (standard gage), mix mobile, mix mobile (with self-loading attachment), mucking machine (tunnel), pile driver machine, pipe extrusion machine, presplitter drill (self-contained), Quad Nine, refrigeration plant (soil stabilization), scraper (multibowl), shovel—power, slip form paver C.M.I. and similar), trenching machine (30,000 lbs. and over), trenching machine (under 30,000 lbs.), tunnel machine (Mark XXI Jarva, or similar), Whirley	7.03	.35	.50		$0.04	
Asphalt paving machine (spreader), asphalt plant operator, Athey loader, Auger (tractor mounted,) Auger (truck mounted), backhoe (rear pivotal swing) (180 swing), boring machine, cable placer or layer, compactor with blade, concrete batch plant (electronically synchronized), concrete belt placer (C.M.I. and similar), concrete mixer (over 1 cylinder), concrete pump, core drill (truck or skid mounted—similar to Penn drill), dozer, Euclid loader, grader—power, grease unit operator (head), hilift (under 4 cylinders), job work boat (powered), jumbo operator, locomotive (narrow gage), mechanic, monor equipment operator (accumulative four units), mucking machine, overhead crane, roller—power—asphalt, Ross carrier, scraper, side boom or tractor mounted boom, stone crusher (screening-washing plants), stone spreader (self-propelled), truck mounted drill (Davey or similar), welder and repairman, well point pump operator	6.77	.35	.50		.04	
Compactors/Rollers (static or vibratory) (self-propelled), minor equipment operator (two to three units), soil stabilizer machine, tire repairman, tube finisher (C.M.I. or similar), well driller and horizontal	5.31	.35	.50		.04	
Ballast Regulator, Compressor, Concrete Finishing Machine and Spreader, Concrete Mixer (1 cy. and under with Skip) Concrete Saw (Ridden or self-propelled) Conveyor, Curb Builder (Self-propelled) Elevator (Material hauling only) Forklift (Ridden or self-propelled) Form line Machine, Generator, Grout Pump, Heater (Mechanical) Hoist (single drum) ladavator, Light Plant, Mulching Machine, Mulching Machine, Pavement Breaker (self-propelled or ridden) Personnel Boat (Powered) Pulverizer, Pumps, Seeding Machine, Spray Cure Machine (Power driven) Subgrader, Tie Puller, Tie Tamper (Multi-head) Tractor-snaking and hauling, Tugger, Welding Machine (Gas or Diesel) Winch or Hydraulic Boom Truck (when hoisting and placing)	4.86	.35	.50		.04	
Deck Hand, Farm Tractor, Fireman on Boiler, Mechanic's Helper, Oiler, Power Broom, Side Delivery Shoulder Spreader	4.71	.35	.50		.04	
PA-2-TD-2-3-D						
Heavy and highway construction:						
Truck drivers:						
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pickup, and similar equipment, parts man and warehouseman)	5.34	.25	.15			
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease	5.50	.25	.15			
Tri-axle trucks	5.60	.25	.15			
Heavy equipment whose capactiy exceeds that for which State licenses are issued—specifically refers to units in excess of 8 ft. width (such as euclids: end or belly dump, single twin-engined or tandem: Athey wagon: payloader, tournawagons, and similar equipment when not self-loaded), rated under 45 tons)	5.60	.25	.15			
Heavy off-the-road equipment rated at 45 tons	5.70	.25	.15			
Heavy duty trailer, such as low boy, hi-boy, pole trailer, A-frames (when used for transporting materials), dumpsters, ross carriers, form trucks, dual-purpose trucks (when load has been loaded or unloaded with truck winch, loading, hauling, and unloading), mechanical tailgate trucks, bucket self-loading trucks, farm tractors (when pulling and hauling), forklift trucks (in storage areas and warehouses)	5.66	.25	.15			
Ready-mixed concrete trucks licensed under 33,000 lbs. (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.40	.25	.15			
Ready-mixed concrete trucks licensed over 33,000 lbs. (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.50	.25	.15			
Tar and asphalt distributing trucks (all liquid tank trucks, straight and semi, including water, sprinkler, oil trucks, etc.)	5.50	.25	.15			
Trucks with dolly or trailer	5.45	.25	.15			
Tractor-dump trailer	5.60	.25	.15			

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-443—36 F.R. 16352, Mobile County, Ala., Modification No. 3						
CHANGE:						
Roofers	$6.45	$0.10			f	
Kettlemen	5.67	.10			f	
Helper	4.62	.10			f	
WD No. AM-458—36 F.R. 16390, Escambia, Okaloosa, Walton and Santa Rosa Counties, Fla., Modification No. 2						
CHANGE:						
Painters:						
Commercial	6.83					
Industrial	7.13					
Hazardous	7.38					
WD No. AM-334—36 F.R. 15175, Madison County, Ill., Modification No. 3						
CHANGE:						
Carpenters (building, heavy, and highway)	8.235	.35	$0.30			
Millwrights	8.235	.35	.30			
Piledrivermen	8.235	.35	.30			
Soft floor layers	8.235	.35	.30			
WD No. AM-337—36 F.R. 15194, St. Clair County, Ill., Modification No. 3						
CHANGE:						
Carpenters (building, heavy, and highway)	8.385	.25	.25			
Millwrights	8.385	.25	.25			
Piledrivermen	8.385	.25	.25			
Soft floor layers	8.385	.25	.25			

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-848—36 F.R. 16268, Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawrence, Marion, Richland, Wabash, Wayne, and White Counties, Ill., Modification No. 2						
CHANGE:						
Carpenters and piledrivermen:						
Portion of District No. 7 under jurisdiction of Local No. 347—Mattoon including Effingham County and west of Highway No. 130 in Jasper County including Newton, carpenters and piledrivermen	6.30	.25	.20		$0.02	
Remainder of District No. 7, carpenters and piledrivermen	6.26	.25	.25		.01	
WD No. AM-849—36 F.R. 16257, Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, St. Clair and Washington Counties, Ill., Modification No. 3						
CHANGE:						
Carpenters and piledrivermen:						
Bond, Calhoun, Greene, Jersey, and Madison Counties	8.235	.35	.30			
Clinton, Monroe, St. Clair, and Washington Counties	8.335	.25	.30			
WD No. AM-5,993—36 F.R. 24023, Armstrong, Blair, Crawford, Indiana, McKean, Venango, and Warren Counties, Pa., Modification No. 1						
OMIT:						
Under counties: Centre, Clearfield, Jefferson, and Greene:						
Laborers, power equipment operators, and truck drivers						
CHANGE:						
Tennessee—Zone 1-H						
WD No. AM-504—36 F.R. 16493 Tennessee (Statewide), Modification No. 1						
OMIT: Wage schedule as issued.						
ADD:						
Bricklayers	4.91					
Carpenters	4.07					
Cement masons	3.97					
Ironworkers, reinforcing	3.93					
Ironworkers, structural	4.38					
Painter or sandblaster	3.84					
Laborers:						
Laborers, unskilled	2.50					
Air tool operator	2.72					
Mortar mixer, chain saw, pipelayer, concrete rubber	2.70					
Concrete saw operator, guardrail erector, sign erector	2.79					
Firemen	2.76					
Asphalt raker	2.87					
Concrete edger	2.89					
Powderman	3.25					
Form setter, steel road	2.94					
Nozzleman or gunman (gunite)	3.97					
Flagman	2.50					
Operating engineers:						
Dragline operator, shovel operator, crane operator, end loader, 5 yds. and over, pile driver operator, motor patrol finish, mechanic (class I)	4.07					
Backhoe operator, concrete paver operator	4.03					
End loader under 5 yds., mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver	3.65					
Bulldozer or push dozer operator, scraper operator, trenching machine, tractor (boom and hoist)	3.69					
Roller (high type)	3.54					
Spreader (self-propelled)	3.48					
Distributor (bituminous)	3.37					
Roller, other than finish, dozer or loader—stock pile only	3.24					
Tractor, crawler, utility	3.31					
Concrete mixer, less than 1 yd., earth drill	3.02					
Mulcher or seeder, scale operator, motor crane driver, and oiler	3.00					
Tractor, farm	2.78					
Curb machine	2.77					
Ditch paver, mechanic helpers	2.74					
Pump operator, welder helper	2.71					
Track drill operator	2.84					
Oiler	2.77					
Truck drivers:						
2 axles	2.77					
3 axles	2.82					
4 axles	2.97					
5 axles or more or heavy off the road trucks or haulers	3.18					
WD No. AM-1,842—36 F.R. 16238, Montgomery and Prince Georges Counties, MD.; City of Alexandria, Va; Arlington County, Va.; Dulles International Airport, Modification No. 5						
CHANGE:						
Building construction:						
Elevator constructors	8.58	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers	6.01	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers (prob.)	4.29					
WD No. AM-1,843—36 F.R. 16241, Washington, D.C. Modification No. 7						
CHANGE:						
Building construction:						
Elevator constructors	8.58	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers	6.01	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers (prob.)	4.29					

[FR Doc.72-101 Filed 1-6-72; 8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Cost of Living Council Ruling 1972-1]

STATE AND LOCAL INCOME TAXES, SALES TAXES, REAL ESTATE TAXES, AND UNEMPLOYMENT COMPENSATION PAYMENTS

Cost of Living Council Ruling

Facts. State A wishes to increase its income and sales taxes and its unemployment compensation payments. City B wishes to raise its real estate taxes. Both state A and city B also want to grant salary increases to their employees, effective January 1, 1972.

Issue. Are these proposed increases covered by Price Commission or Pay Board Regulations?

Ruling. State and local income taxes, sales taxes, and real estate taxes, and unemployment compensation payments are not prices, rents, wages, or salaries within the meaning of the Economic Stabilization Act of 1970, as amended, and accordingly are not subject to Price Commission and Pay Board Regulations. Commission and Pay Board Regulations. Economic Stabilization Regulations § 101.1(c). On the other hand, salaries and wages of state and local employees are covered by Pay Board Regulations.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: January 5, 1972.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.
General Counsel,
Department of the Treasury.

[FR Doc.72-373 Filed 1-6-72;11:30 am]

[Cost of Living Council Ruling 1972-2; Price Commission Ruling 1972-3]

FOREIGN EXPORTER AND U.S. IMPORTER

Cost of Living Council and Price Commission Ruling

Facts. A U.S. corporation, A, buys raw leather from a foreign dealer who delivers the leather to corporation A in the United States. Upon receipt of the leather, corporation A manufactures leather jackets that it sells to clothing wholesalers in the United States. The jackets are not custom made to order.

Issue. How are these two transactions covered by the regulations?

Ruling. The first sale of an import into the customs territory of the United States is exempt. Economic Stabilization Regulations § 101.32(d)(2). The price may be whatever is agreed upon between the foreign exporter and U.S. importer. Therefore, in the example above, the sale of the leather goods by the foreign dealer to corporation A is exempt. When the importer sells the article (whether changed or not, or incorporated into another product) to a U.S. purchaser, that sale is subject to control and the rules of the Price Commission apply. Thus, the sale by corporation A to the U.S. retailers is subject to the rules of the Price Commission. The price charged by corporation A to the U.S. wholesalers may exceed corporation A's base price (as defined in Subpart F of the regulations) only if it reflects cost increases, subject to adjustments for productivity gains and subject to the rule that its profit margin as a percentage of sales may not be greater than the average of the best two of the last 3 fiscal years ended prior to August 15, 1971. Economic Stabilization Regulations, § 300.12.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: January 5, 1972.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.
General Counsel,
Department of the Treasury.

[FR Doc.72-374 Filed 1-6-72;11:30 am]

[Price Commission Ruling 1972-1]

BUS OPERATORS

Price Commission Ruling

Facts. An operator of school buses holds contracts for the transportation of school children with several school districts. The contracts are negotiated each year during June and July. All the contracts for the school year 1971-72 were signed in June, 1971 except one with School District A which was signed July 20, 1971. Wages of his drivers were increased by 5 percent in contracts signed July 27, 1971.

Issue. May the operator increase his service charges for transportation for the school year 1972-73 to be negotiated next summer?

Ruling. The bus operator may increase his charges to all school districts with which he will contract to furnish transportation services for 1972-73. However, in accordance with the conditions in § 300.14 of the Economic Stabilization Regulations, increases in charges are authorized only to reflect allowable costs in effect on November 14, 1971, and cost increases incurred after November 14, 1971, reduced to reflect productivity gains, and only if the increased prices do not increase the firm's total profits, as a percentage of sales, before income taxes, over those which prevailed during the base period.

The base price from which the allowable increase is to be computed is the price of the contract with School District A which was entered into during the freeze base period—July 16 to August 14, 1971. Accordingly, the bus operator may charge in excess of the price in this contract so much as is necessary to absorb increases in allowable costs, such as wages (subject generally to a limitation of 5.5 percent on increases made after November 8, 1971), maintenance, replacements, licenses, etc.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 5, 1972.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-369 Filed 1-6-72;11:30 am]

[Price Commission Ruling 1972-2]

CRITERIA FOR CORPORATE PRICE INCREASES

Price Commission Ruling

Facts. A manufacturer, a corporation, manufactures three separate items. The corporation has been actively engaged in the business since 1967. It computes its net income on the basis of a calendar year. In the year 1968 the corporation had net income, before income taxes and extraordinary items, equal to 5 percent of its sales. In the years 1969 and 1970 the respective figures for net income, before income taxes, and extraordinary items, were 6 percent and 7 percent. Beginning December 31, 1971, the corporation proposes to increase the prices of each of its three products by 3 percent because the cost of certain raw materials used in the products has increased by 4 percent and many of its employees have received a 2 percent wage increase. Annual sales of the corporation do not and have never exceeded $1 million.

Issue. May the corporation increase its prices by more than 2.5 percent after November 13, 1971, and, if so, what factors would determine the amount of the increase?

Ruling. It is possible that the corporation may increase its prices more than 2.5 percent. Prices after November 13, 1971, are to be established in accordance with Price Commission guidelines. The 2.5 percent figure represents a goal for average price increases across the entire economy, but individual price changes may be above or below that figure, depending upon allowable cost increases and net profit margins. Under Economic Stabilization Regulation § 300.12, manufacturers may charge prices for products in excess of the base prices to reflect increases in allowable costs in effect on November 14, 1971, and cost increases incurred after November 14, 1971 reduced to reflect productivity gains. However, the effect of all of a manufacturer's price

changes cannot be to increase its profit margin as a percentage of dollar sales, before income taxes, over that which prevailed during the base period. The "base period", as defined in Economic Stabilization Regulations § 300.5 means the average of any two of a person's last three fiscal years ended prior to August 15, 1971. The selection of such two fiscal years is to be made by the person. Therefore, increases in the manufacturer's prices of the three products would be determined by reference to the profit margin determinations for any two of the years 1968, 1969 and 1970. It would also be determined by reference to increases in allowable costs and by productivity gains. However, the profit margin determinations are to be made by reference to the three products manufactured and not merely to each product individually.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 5, 1972.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-370 Filed 1-6-72;11:30 am]

[Price Commission Ruling 1972-4]

SALE OF PERSONAL PROPERTY BY INDIVIDUALS

Price Commission Ruling

Facts. Citizen A wishes to sell a television set he purchased from a retailer 2 weeks ago and used in his home but which he no longer needs because he just received a better model as a gift.

Issue. Is citizen A's sale of this television set exempt from the controls of the economic stabilization program?

Ruling. Yes. Sales of used products are exempt from controls. Economic Stabilization Regulations § 101.32(e). To qualify as a used product, the product must have been acquired and used by an end user, such as citizen A. Temporary holding for purposes of resale, however, does not make a product a used product, unless it is used for demonstration purposes, such as a demonstration or floor sample.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 5, 1972.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-371 Filed 1-6-72;11:30 am]

[Price Commission Ruling 1972-5]

CRITERIA FOR INCREASES IN PROFESSIONAL SERVICE FEES

Price Commission Ruling

Facts. A, B, and *C* are certified public accountants practicing their profession as a partnership, A, B, C & Co. They bill clients for services rendered, taking into account such factors as their costs in performing accounting work and results achieved in the event they represent clients in business negotiations.

Issue. May the partnership of A, B, C & Co. increase the fees which it charges its clients after November 13, 1971?

Ruling. The partnership A, B, C & Co. may increase its fees depending on the circumstances. The fees charged by the firm of certified public accountants are prices which are governed by the regulations of the Price Commission dealing with services. See Economic Stabilization Regulations, §§ 300.5 and 300.14. Even though the fees charged for services rendered after November 13, 1971, may take into account costs in effect on that date and cost increases after that date, reduced to reflect productivity gains, such increased fees shall not result in an increase in the partnership's profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period. To the extent that charges are based on results achieved in business negotiations (e.g., on a percentage basis), without regard to cost, such charges cannot exceed the higher of (1) charges made for the same or similar services during the period beginning August 15, 1971, and ending November 13, 1971, or (2) the highest charge made to a specific class of clients in a substantial number of transactions involving such services during the freeze base period (as defined in section 300.5 of the Regulations).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 5, 1972.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-372 Filed 1-6-72;11:30 am]

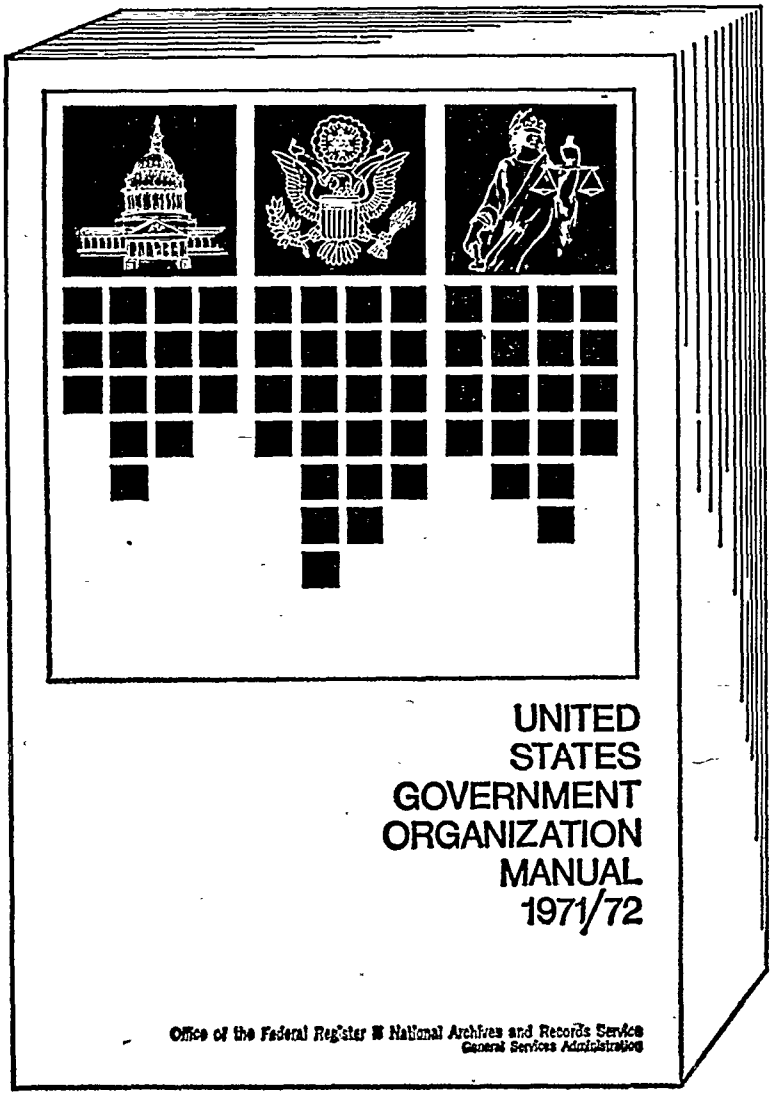
CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.

LIST OF FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	*Date*	*Pages*	*Date*
1–62	Jan. 4	125–193	6
63–123	5	195–249	7

Know your Government...



The Manual describes the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches.

Most agency statements include new "Sources of Information" listings which tell you what offices to contact for information on such matters as:

- Consumer activities
- Environmental programs
- Government contracts
- Employment
- Services to small businesses
- Availability of speakers and films for educational and civic groups

This handbook is an indispensable reference tool for teachers, students, librarians, researchers, businessmen, and lawyers who need current official information about the U.S. Government.

Order from
SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

$3.00 per copy.
Paperbound, with charts